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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA BARBARA
SANTA MARIA BRANCH; COOK STREET DIVISION
DEPARTMENT SM-2 HON. RODNEY S. MELVILLE, JUDGE

THE PEOPLE OF THE STATE OF)
CALIFORNIA,)
Plaintiff,)
-vs-) No. 1133603
MICHAEL JOE JACKSON,)
Defendant.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

TUESDAY, MARCH 29, 2005

8:30 A.M.

(PAGES 3934 THROUGH 3987)

REPORTED MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304
BY: Official Court Reporter 3934

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I N D E X

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Mr. Zonen is listed as “Z” on index. Mr. Auchincloss is listed as “A” on index.
Mr. Nicola is listed as “N” on index. Mr. Mesereau is listed as “M” on index.
Ms. Yu is listed as “Y” on index. Mr. Sanger is listed as “SA” on index.
Mr. Oxman is listed as “O” on index.

PLAINTIFF’S WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS
SPINNER, Robert (Cont’d)	3937-SA	3980-N		

Santa Maria, California
Tuesday, March 29, 2005
8:30 a.m.

THE COURT: Good morning.
COUNSEL AT COUNSEL TABLE: (In unison)
Good morning, Your Honor.
THE JURY: (In unison) Good morning.
MR. SANGER: May I proceed? Thank you.

CROSS-EXAMINATION (Continued)
BY MR. SANGER:
Q. Good morning.
A. Good morning, sir.
Q. All right. We were, right at the end of the day, talking about exemplars. And the question about exemplars that I was getting to is, is it important in comparing an exemplar to a known print to determine if there are any dissimilarities?
A. Yes, sir, there is.
Q. You can have quite a number of Galton points, or points that you identify as being identical, correct?
A. Among others, yes.
Q. And if you have an unexplained dissimilarity, then you have to reject the comparison; is that correct?
A. Yes. 3937

Q. All right. So therefore, it's important to have a good exemplar, so you can see all of the features of the print, correct?
A. That's correct.
Q. And it's also important to have a good latent print, if possible, to compare to the exemplar, correct?
A. Yes, sir, that's correct.
Q. All right. In other words, you -- you have what you have. Whatever shows up as a latent is what you get to compare, correct?
A. That's -- yes, sir.
Q. But the more detail and the more of the print that you have, the better it is to compare to the exemplar, correct?
A. The more detail, the more positive the comparison.
Q. All right. Now, I think you told us that you were familiar with SWGFST; is that correct?
A. Yes, I read their guidelines.
Q. All right. And that is a working group which was created in the last few years to deal with fingerprint examination and comparison, correct?
A. Yes.
Q. All right. One of the things that has arisen in the latent print examiner community is a question of whether or not there are adequate validation studies to support fingerprint

comparisons, correct?
A. That's correct.
Q. And that's one of the things that SWGFST was formed to address?
A. I'm not sure whether they were formed to address the actual lack of a validation study, but they were formed to address latent fingerprint comparison in general.
Q. All right. Now, when you're looking at prints on paper, as you did in this case, there are some things that you can -- that you can tell from prints, obviously, and other things you can't, correct?
A. Depends how much of the print is available, that's a correct statement.
Q. And one of the things, though, that you can't tell from examining fingerprints is when the fingerprints were put on the object; is that correct?
A. That's correct.
Q. And if you have two sets of prints, for instance, on the same object, there is no way of telling which was placed before the other?
A. That's correct.
Q. So they could be placed at totally different times, they could be placed at the same time, they could be placed at different times that are close together; correct? 3939

A. That's correct.
Q. Or different times but far apart?
A. Yes, sir.
Q. All right. Now, did you have training from the Spex company, S-p-e-x?
A. No, I did not.
Q. And were you aware that the sheriff's department had arranged for training from the manufacturer of the Scenescope?
A. No, sir, I was not.
Q. Did you have any training on the Scenescope yourself?
A. No, sir, other than about ten minutes of brief information I got from Detective Lafferty.
Q. Okay. And when did you obtain that information from Detective Lafferty?
A. I believe it was in August of 2004.
Q. All right. Were you advised by Detective Wittenbrock that it was not necessary to fume as extensively with super glue if you're using the Scenescope?
A. He may -- he made a comment once that he thought some of the pages were coming out a little heavy, and that we, at that point, pulled back about a minute on the super glue exposure timing.
Q. When you say "heavy," the fuming process was then obscuring some of the detail on the prints; is that correct? 3940

A. That was his opinion, but I never got the same opinion from Detective Sutcliffe.
Q. All right. Did you form an opinion yourself?
A. I never had a chance to really look. I relied on their feedback to adjust the gluing times if it became necessary.
Q. All right. I want to clear up a couple details.
I'll make my way through here. Excuse me?
May I approach the witness, Your Honor?
THE COURT: Yes, sir.
MR. SANGER: These are in evidence.
Q. Okay. I have put before you Exhibit 723, 726, and 748.
A. Yes, sir.
Q. And on direct examination you said that 748, if you put -- take 748. I think it's that one.
A. Correct.
Q. All right. Can you hold that up - if that's all right with the Court. It's in evidence - so the jury can see it?
THE COURT: Yes.
MR. SANGER: Just so we all know what we're talking about.
Q. 748 was a comparison board that showed your comparison of fingerprints, the exemplar to a latent print. And you testified on direct that that was 3941

the print, the image that was depicted in Exhibit 723. Would you pick up 723? That's not 723. That's 723. Okay. Looking at 723, does 748 depict the image in 723?
A. No, sir.
Q. Okay. In fact, if you look at 726, that appears to be a similar image to 748; is that correct?
A. That's correct, sir.
Q. I take it, in fingerprint examination and comparison, it's extremely important to keep track of the exemplars and the latent prints; is that right?
A. Yes, sir.
Q. You don't want to be mixing prints up, otherwise it could cause all sorts of problems, right?
A. Yes, because you probably couldn't make an identification if you mixed them up.
Q. Would it cause problems if you mixed up your latent prints and your exemplar prints?
A. If things are not kept in the correct numerical order and name order, yes.
Q. Okay. Now, let's talk about -- a little bit about your training and experience. You had mentioned that you had -- this case accounted for, at one point you said about a quarter, and then you said maybe a fifth or a sixth of the total number of 3942

prints that you compared, correct?
A. Yes, sir.
Q. And how long have you been a latent print examiner?
A. I started working with latent prints in 1987.
Q. Were you a latent print trainee for some period of time?
A. Yes, sir, I worked under William Moore, who was a latent print examiner in our office at the time when I started. And that's when we also started working with CAL-ID Systems.
Q. All right. Now, Detective Moore, was he a detective or an I.D. tech?
A. He was a senior I.D. technician.
Q. Okay. I.D. Tech Moore was somebody who had pretty much learned the job of being a latent print examiner on the job; is that correct?
A. I'm not sure where he got all his training. He was in the bureau when I got there, and he was filling the position of I.D. technician and doing latent print examinations, and he was the one that I started training under.
Q. Okay. And how long did you train under I.D. Tech Moore?
A. Probably about eight years. He was in the office approximately eight or nine years before he retired. 3943

Q. And during that period of time, did Mr. Moore do most of the latent print examination for the sheriff's department?
A. He did a great deal of the latent print exams. And also he was the CAL-ID Systems operator when it was installed.
Q. Okay. Let's not go too far afield on that. But since you brought it up, CAL-ID is -- is that a computerized system to match prints?
A. It's a computerized -- yes, that's the simple definition, yes.
Q. Okay. And now you have some other systems like AFIS?
A. Well, that's what CAL-ID originally was, was an AFIS system. We have a second or third generation of searchers and submitters now.
Q. Okay. In any event, you did not use the AFIS system or the CAL-ID System here?
A. No, sir. We had supplied exemplars for the three individuals who we were doing the latent print comparisons against.
Q. So again, not to go too far afield, but just to understand what you said, the computer system is a way to take prints, latent prints, and see if you can find an exemplar somewhere in the system; is that right?
A. It's taking -- to clarify, it's taking an unknown print, run it through a set of computer 3944

matchers to determine if there's a match in the system.
Q. You could also take an exemplar print, a rolled print, and run it through the system, right?
A. Yes, sir, you can.
Q. So if you arrest somebody and you want to see if their fingerprints match somebody else in the country, you could send it to the federal AFIS system to have a fingerprint search; is that correct?
A. No, we don't have that capability. We send it to Sacramento DOJ or Department of Justice. And I believe at that point it could be routed through the Department of Justice to the FBI I-AFIS.
Q. Okay. And the FBI system is called "I-AFIS"?
A. That's correct, sir.
Q. So again, you could go to the state Department of Justice, and they may route it on to federal. But you have access, basically, to the whole fingerprint bank that exists in the country; is that correct?
A. In one form or another, yes, sir, we do.
Q. All right. Now, again, in this particular case, you weren't doing that, you were -- you were attempting to compare exemplar prints to latent prints that were found on these various objects?
A. That's correct. 3945

Q. Okay. Now, from -- in 1987, you started working with Mr. Moore. When did you become a latent print examiner as opposed to a latent print trainee?
A. I would suppose that I probably graduated into a journeyman in -- sometime in the early '90s. '91, '92, possibly.
Q. Okay. Now, is that -- was there some official designation? Did you get a certificate, or a letter of recognition or something, or is it just a point that you get to where you feel you're an examiner as opposed to a trainee?
A. I believe it was a point where the other examiners in the office, Mr. Moore, and Doug Coleman was still there, they felt that I was sufficient in my job, that I could perform latent examinations and form conclusions.
Q. And Doug Coleman was also an I.D. tech; is that correct?
A. He worked for the Santa Barbara County Sheriff's Department about that time before moving to the Santa Maria Police Department.
Q. Okay. But he was an I.D. tech as opposed to a technician?
A. No, he was an I.D. technician also.
Q. Right. Now, I think you said on direct examination that you're not certified by any organization as a latent print examiner; is that 3946

correct?
A. That's correct.
Q. You belong to the Southern California Association of Fingerprint Officers?
A. That's correct.
Q. That's a membership organization, right?
A. Yes, sir.
Q. Send in your dues, and if you're a peace officer, you can belong to it; is that correct?
A. It's about -- it's more civilian than law enforcement officers or sworn officers. But it's -- you have to make an application, you have to go to three meetings. If anybody has an objection to your membership, you will not be installed. And after the third meeting, then you're installed. And then you're a member until you quit.
Q. All right. Now, you mentioned that I.D. Tech Moore and I.D. Tech Coleman had indicated that they felt you were ready to do examinations on your own at some point in the '90s; is that correct?
A. I think that's a correct statement, sir.
Q. Were you ever subjected to proficiency testing?
A. Not officially. However, every time we do a latent print examination we get a validation. That can be a form of proficiency testing.
Q. Sir, you know what I mean by "proficiency testing," is that correct? 3947

A. Yes, sir. There are agencies which send in blind tests and then you do the tests and send it back and they're graded.
Q. Were you ever subject to proficiency testing?
A. No, sir.
Q. The Santa Barbara Sheriffs does not submit itself to proficiency testing in fingerprint examination; is that correct?
A. That's correct, sir.
Q. And they're -- are you familiar with the agencies that do proficiency testing?
A. No, sir, I don't know any right now who are actually doing proficiency testing from personal knowledge.
Q. All right. You've indicated, though, that you have gone to a number of meetings and some training sessions with regard to latent print examination, correct?
A. Yes, sir.
Q. And so you attempt to keep up with the literature, as it were, in the field; is that right?
A. As much as possible, yes, sir.
Q. And in the course of your training and experience, you're aware that the Law Enforcement Assistance Administration, the LEAA, federal agency, did proficiency testing; is that correct?
A. No, I'm not sure. 3948

Q. Were you aware that Collaborative Testing Service, a private company, was contracted to do proficiency testing from 1995 to 2003?
A. I know they do proficiency testing. I don't know who they did it for or if they were ever contracted through anybody.
Q. Okay. In the course of your studies with regard to latent print examination, you're aware that the proficiency testing across the country turned up a number of misidentifications, a significant number, correct?
MR. NICOLA: I'm going to object, lack of foundation, Your Honor.
THE COURT: Foundation, sustained.
MR. SANGER: Okay.
Q. Are you aware that there have been issues with regard to -- let's just take false positives coming up in proficiency testing in this country.
A. I don't know what the rate of any proficiency testing was per agency or per test, no, I don't.
Q. Okay. And your agency doesn't have any percentage or rating because it doesn't submit to proficiency testing; correct?
A. That's correct, sir.
Q. All right. Now, what I'm asking about, is you're aware in the proficiency testing, the blind testing that you have talked about, there have been 3949

a number of instances of false positives showing up;
is that correct?
MR. NICOLA: Objection, lack of foundation,
Your Honor.
THE COURT: Sustained.
Q. BY MR. SANGER: Are you aware of whether or
not -- are you aware of any results -- I'm not
talking about the specific numerical results, but
generally in your reading, in your training and
experience, any results of the proficiency testing
over the last few years?
MR. NICOLA: Objection, lack of foundation,
Your Honor.
THE COURT: Overruled.
THE WITNESS: The only tests that I am aware
of --
THE COURT: Just a minute.
THE WITNESS: Excuse me.
THE COURT: There's a question that just
requires a "yes" or "no" answer.
Read the question back to him.
(Record read.)
THE WITNESS: Yes.
Q. BY MR. SANGER: And were you aware that
false positives have shown up in that proficiency
testing?
A. I can't remember if there were false
positives brought up or whether it was just -- they 3950

just didn't send the test back. I know there was a problem.
Q. Okay. Now, is this part of the problem -- or let me withdraw that. Is this problem that you just described part of the mission of SWGFST to try to remedy?
MR. NICOLA: I'm going to object as to vagueness, Your Honor.
MR. SANGER: Let me rephrase it, because it was an odd sentence at best.
THE COURT: Go ahead.
Q. BY MR. SANGER: Is SWGFST attempting to remedy problems associated with proficiency testing results?
A. I don't know.
Q. You're also aware that in the last five, six years, there have been a number of particularly notable cases in which there have been false positives; is that correct?
A. That's correct.
Q. There was one in 1999 in Scotland involving a police officer by the name of Shirley McKee; is that correct?
A. I'm aware of that case, yes, sir.
Q. And that's a case where the Scotland criminal records office, which is their law enforcement or I.D. tech agency, formed an opinion that there was a positive match; is that correct? 3951

A. That's correct.
Q. And the police officer, Miss McKee, was prosecuted for murder based on that print identification; is that correct?
A. No, I believe she was prosecuted for perjury.
Q. Okay. And at the -- after the case was over, 170 other print examiners looked at the print and said they didn't match; is that right?
A. I know a great number looked at the print. I don't know the exact number. But almost everybody agreed that it did not match.
Q. Almost everybody in the Scottish records office to this day maintains that it's a positive I.D., correct?
A. That's my understanding.
Q. This is part of what you described as a subjective aspect of making print identifications, correct? In other words, people form an opinion, and that's the basis for a positive identification, correct?
A. Yes, it's -- yes.
Q. And you're also aware of the case last year involving Brandon Mayfield; is that right?
A. That's correct, sir.
Q. Brandon Mayfield was a lawyer in Oregon, correct?
A. Correct. 3952

Q. And he was placed in custody for two months based on a fingerprint identification, correct?
A. I thought it was two weeks. That was my reading.
Q. All right. Well, he was placed in custody long enough to be an interference with his life; is that correct?
MR. NICOLA: Objection. That's argumentative, Your Honor.
THE COURT: Sustained.
Q. BY MR. SANGER: He was placed in custody for some period of time?
A. Correct.
Q. And he was accused of being involved in the Madrid bombing; is that correct?
A. Correct.
Q. And that was based on the FBI making a positive identification of his fingerprint on something associated with that bombing; is that correct?
A. That's correct.
Q. And they had three FBI fingerprint -- latent print examiners who compared the print and agreed that it was positive; is that correct?
A. That's correct.
Q. And they had -- they identified in excess of 16 points of identification; is that correct?
A. I don't think it was a number quite that 3953

high, but I don't know the exact number, sir.
Q. All right. And eventually the Spanish police identified the fingerprint to an Al Qaeda member; is that correct?
A. I know they did identify it. I wasn't quite sure -- I don't know who they identified it to, but I believe it was somebody involved in an organization over there.
Q. And Mr. Mayfield -- it turns out at this point Mr. Mayfield had absolutely nothing to do with it; is that right?
A. I don't know if he did or not. I don't know if he was totally exonerated or whether he's still waiting.
Q. Okay. You're aware that the fingerprint -- you're aware that the FBI has indicated that they made a mistake and it was not his fingerprint, correct?
A. That's correct, sir.
Q. And they, in part, blamed it on digital imaging?
A. Initially, yes, sir.
Q. And then they changed that opinion about digital imaging after the fingerprint community became concerned that that would undermine digital comparisons, correct?
A. I don't know the answer to that question.
Q. You're also aware of Judge Pollack's 3954

decisions in the - I don't know how you say it - Llera Plaza -- it's L-l-e-r-a Plaza - case; is that correct? It's an Eastern District of Pennsylvania.
A. I know -- I read about Judge Pollack, but I don't recognize that particular case by that name.
Q. All right. In any event, there was a case in Pennsylvania that Judge Pollack had made a determination with regard to fingerprints, admissibility of fingerprints, correct?
A. In 1999, yes, sir.
Q. Are you aware of the opinions in January and March of 2002?
MR. NICOLA: Objection. Relevance and calls for hearsay.
THE COURT: Overruled.
You may answer "yes" or "no."
THE WITNESS: I can't say "yes" to that.
I don't remember.
Q. BY MR. SANGER: All right. In any event, these matters that we talked about, Shirley McKee, the Mayfield, Judge Pollack's ruling, whenever it was, those have been the subject of conversations, debate and concern in the latent print examination community; is that correct?
A. That's correct.
Q. Now, you said that you had taken a couple of courses from Sergeant Ashbaugh; is that right?
A. That's correct. 3955

Q. In fact, one course you took was actually in January of 2005, this year; is that correct?
A. That's correct.
Q. And Sergeant Ashbaugh is a sergeant with the Royal Canadian Mounted Police; is that correct?
A. That's correct.
Q. He coined the phrase "ridgeology"; is that right?
A. That's correct.
Q. Okay. And actually wrote a book about ridgeology; is that right?
A. "Quantitative-Qualitative Friction Analysis," yes, sir.
Q. And he calls it "ridgeology"?
A. That's what he calls the system.
Q. All right. And his -- without going into -- you can go into as much detail as you want, but without going into unnecessary detail, his theory is to get away from simply matching Galton points to do something more sophisticated in analyzing prints; is that correct?
A. The fingerprint community started getting away from just using strictly Level II detail or Galton points some time ago.
What Mr. Ashbaugh said was that -- he coined the phrase "ridgeology" in an attempt to explain how latent fingerprint examiners do their work, because nobody had done this up to this time, because a lot 3956

more takes place in the latent fingerprint examination than just counting, as you say, Galton details.
Q. All right. So he was trying to explain how latent fingerprint examiners can come up with an opinion, an ultimate opinion, that there's either a positive identification, or there's no identification, or it's inconclusive; is that correct?
A. Yes.
Q. It all goes back to a couple basics, though. Whether you go back to Galton in 1886 or you talk about Sergeant Ashbaugh, the first thing you're talking about with fingerprints is the permanency?
A. That's correct.
Q. The idea that a fingerprint is permanent from birth to death absent some of the things you talked about, I mean mutilation, or something else, correct?
A. That's correct.
Q. The second is that two fingerprints -- no two fingerprints will be identical; is that correct?
A. The uniqueness theory, yes, sir.
Q. So it's unique. Now, it turns out, based on experiences in the last few years in particular, that two prints can be quite similar, correct?
A. Two prints can be similar, but they cannot be the same. 3957

Q. Well, that's the theory.
A. I think that's a proven fact over 100 years.
Q. In other words, over the last 100 years your position is that no two full prints have ever been found to be absolutely identical, right?
A. That's correct.
Q. But there are prints, you would agree, that match on numerous Galton points, or points of identification, and yet are not, in fact, from the same person, correct?
A. I have seen four match before. I found a dissimilarity. But there can be similarities, yes.
Q. Some of these cases involved quite a lot more than four points; is that right?
A. I'd have to see -- I have seen the Mayfield prints, and I -- I don't agree with the FBI's -- the number of prints they got. In fact, I would not even have done that examination, because I don't feel that the latent print is of enough quality to even deal with.
Q. And that's a point I was going to get to in just a minute, but let's pick it up right now. And that is, that you don't generally have a full print when you're dealing with latent prints to compare to the exemplar, correct?
A. Most of the time, no. But sometimes you get lucky and you do.
Q. In this particular case, the 19 prints that 3958

you have here, were any of them a full print?
A. Some of them were, yes.
Q. All right. When you say “full,” it wasn’t a rolled print?
A. It wasn’t a rolled print. But if we have the pattern area, the delta area, the ridge flow behind the re-curves up from the core and down from the core, so we had quite a substantial portion of that print visible.
Q. So, what you’re saying is if you had a partial print, but you thought it was a substantial partial print?
A. That’s correct.
Q. All right. And we’ll get to some of those in a second.
Let’s talk about the ACE-V process that Mr. Ashbaugh’s talked about, and I believe you say you use; is that correct?
A. As far as I know, the basic -- the fingerprint community uses that methodology.
Q. All right. And when you’re talking about ACE-V -- we’ve gone through it so I don’t want to bore everybody to tears -- I’m hearing twittering behind me. It may be too late.
(Laughter.)
MR. SANGER: All right.
Q. But this is important, so we want to try to get through it as best we can. 3959

1 On the ACE-V, basically “A” is analysis?
2 A. Correct.
3 Q. So you have to look at the big picture and
4 see if there’s anything there that would disqualify
5 the latent print from comparison, correct?
6 A. You want to analyze the latent print for
7 quality and quantity of detail and clarity, see
8 whether it’s even usable, how much detail is
9 available in that particular latent print.
10 Q. And then you go to comparison, and that
11 simply means that you compare the exemplar print to
12 the latent print; is that correct?
13 A. That’s a simplified version, yes.
14 Q. We’re trying to be simple, but we can make
15 it more complicated.
16 A. What you would do, you would find your
17 target group in the latent print and see if it
18 exists in the known print, and then work from the
19 latent print to the known print.
20 Q. Okay. Now, after you do all of that, you
21 get to the “E,” which is evaluation, right?
22 A. That’s correct.
23 Q. And that’s a subjective part, right?
24 A. No, that’s still your objective part.
25 Q. Well, when you’re comparing, during
26 evaluation, that’s when you form your opinion,
27 right?
28 A. At the end, yes. 3960

Q. Okay. So when you form your -- let's put it this way: At the end of the "E" part, evaluation, you form your opinion?
A. Okay, yes, sir, that's correct.
Q. And that's subjective?
A. Yes, based on what you found out during the objective form of the evaluation.
Q. So you're basically saying, "I got to call it, it's a ball or a strike. It's a positive or it's not," right?
A. You're attempting to determine whether there is sufficient detail in the friction ridges and sequence and characteristics to individualize that particular print to your suspect or the person that you're comparing it to.
Q. And that is an opinion, correct?
A. That's correct.
Q. And people's opinions can differ --
A. That's correct.
Q. -- correct?
And we've given some prominent examples of where opinions differ, right?
A. Correct.
Q. In other words, you differ with the FBI on the Mayfield case, correct?
A. Correct.
Q. I take it you didn't analyze it while he was still in custody, did you? 3961

A. I saw that print initially a couple of months ago on the Internet.
Q. Okay. So you weren't in a position to call them up, and say, "Hey, you guys screwed up on this"?
A. I'd like to have been, but, no.
Q. And in fact, in Santa Barbara, in this particular case, you decided to do this fingerprint analysis essentially in-house; is that correct?
A. That's what I was told to do, yes.
Q. Okay. And you could have -- I say "you." Let me withdraw that. A determination could have been made by somebody in the chain of command from the District Attorney's Office down through the chain of command, somebody could have made a determination to send the prints out to be analyzed by some other agency, correct?
A. That's correct.
Q. The Department of Justice, California Department of Justice has latent print examiners, does it not?
A. That's correct.
Q. And you have in the past sent prints to the DOJ to do latent print comparison, have you not? When I say "you," I mean your agency.
A. If we did, it was some time ago. I don't recall anything recently that we -- that I know that was sent to the Department of Justice. 3962

Q. Okay. But you're aware that today and in the fall of last year, 2004, the Department of Justice would provide latent print analysis services at the request of the Santa Barbara Sheriff's Department; is that correct?
A. Yes, sir.
Q. Okay. And you could have sent the prints to the FBI; is that right?
A. I could have. But that option was most likely available. I don't know.
Q. Okay. And again, I don't mean you personally. But if it was decided in the chain of command, somewhere from the District Attorney down through your chain of command, somebody could have made that request of the FBI; is that correct?
A. I would assume so.
Q. Okay. Excuse me one second.
Did you have any discussion with your superiors or colleagues about sending the prints in this case to the Department of Justice in Sacramento?
A. I, at one time, said it might be an option because of the volume of material that we were dealing with.
Q. I take it you were overruled or it was determined that would not happen?
A. As far as I know, yes.
Q. Were you involved in any discussions about 3963

sending the prints to the FBI?
A. No.
Q. Now, we had Dr. Cantu from the Secret Service come to court here a little while ago. Do you know him?
A. I met him a week ago, yes.
Q. He came out here to testify, and you had a chance to talk to him?
A. About the Scenescope, yes.
Q. Other than his coming out here to testify for this jury, did he have any other involvement or provide any other assistance to your office in evaluating the evidence in this case?
A. As far as I know, he did not.
Q. And I take it the United States Secret Service also had no role in this until Dr. Cantu came out to testify here; is that correct?
A. That is my understanding.
Q. Now, I'm not going to go through everything, but what I'll do -- let me come over here. What I'm going to do, if the Court will permit me very loudly for just a moment, I'm going to hold up one of the boxes. Remember these boxes with the white notebooks?
A. Yes, sir.
Q. And I think there were three or four of these boxes that you went through; is that correct?
A. I wasn't counting the boxes. I was looking 3964

at the magazines.
Q. All right. But you went through quite a number of these notebooks?
A. Yes, sir, I did.
Q. All right. And after spending a couple of hours going through those boxes here for the Court, the fact of the matter is, that out of all of those boxes, there were 12 magazines from which you performed a comparison that resulted in your opinion that there was an identification; is that correct?
A. I'd have to look at my notes to count the number of magazines.
Q. Do you have your notes here?
A. Yes, sir, I do. I have a sheet right here.
Q. Yes. Take a look at that.
A. That's correct, sir.
Q. Okay. And before you started going through each one of those, you knew which 12 were the 12 that you actually formed an opinion that there was a positive identification; is that correct?
MR. NICOLA: I object as to vague, Your Honor.
MR. SANGER: The witness looks like he doesn't understand it, so let me rephrase it, Your Honor.
THE COURT: All right.
MR. SANGER: Thank you.
Q. In other words, before we started going 3965

through -- Mr. Nicola got up and went through each one of those binders one at a time?
A. That's correct.
Q. Several boxes?
A. Yes, sir.
Q. Before he did that, you would have been able to say, "Well, look, there's 12 of those binders in which there was a positive identification in my opinion," would you not?
A. That's correct.
MR. NICOLA: Objection. What's the relevance to that question?
THE COURT: Overruled.
Q. BY MR. SANGER: Now, you testified on direct examination that you used Adobe Printshop to work with I.D. Tech Hemman in making comparisons of prints; is that correct?
A. The correct name of the program is Adobe Photoshop, and I.D. Tech Hemman was the computer operator.
Q. Okay. "Photoshop."
A. Yes, sir.
Q. Sorry. That's undoubtedly very important to the Adobe company. All right.
The point of the story is, as I understand it, you're saying that you were able to use two different layers; is that right?
A. Correct. 3966

Q. And I think you referred to them as
"layers"; is that right?
A. That's what they call them in the program,
yes, sir.
Q. All right. And so basically you can sit
down, compare prints, find what you consider to be
points of identification, and then you can leave,
and I.D. Tech Hemman could come in and sit down and
do the same thing and find points of identification,
correct?
A. That's correct.
Q. And then you took your two layers and you
compared your analysis with her analysis; is that
correct?
A. Correct.
Q. Did you both identify the exact same points
on each fingerprint?
A. The exact same basic points were identified
most. Sometimes she may have identified a point
more than I did. Or I may have identified a point
more than she did.
Q. And is it your testimony that you varied by
one point on these fingerprint comparisons?
A. I don't know if exactly one. It could have
been several, sometimes. Sometimes we were dead-on
exact.
Q. So did you save the layers?
A. I believe they may still be in the computer 3967

in Santa Barbara.
Q. So you haven't printed them out or given them to the District Attorney or to defense counsel in this case?
A. No, sir.
Q. All right. Now, you testified to a timeline, and I'm going to ask the clerk if she has that. I don't have the number written down right here.
Do you have the timeline?
THE CLERK: Mr. Nicola has that.
MR. SANGER: Oh, Mr. Auchincloss has it.
All right. That's 622.
Q. And your timeline --
Can I put this up, Your Honor? I believe it was received.
THE COURT: Yes.
MR. SANGER: And let me see.
Q. Your timeline starts in January of -- the printed timeline starts in January of 2004, correct?
A. Yes, sir.
Q. And you basically show your involvement commencing in August of 2004, correct?
A. That's when I first -- obtained the first piece of evidence, yes.
Q. And you're aware that the seizure of the evidence in this case was, for the most part, November 18th of 2003, correct? 3968

A. That was my recollection from reading the newspapers. I wasn't working at that time.
Q. All right. Is that part of the time that you were retired?
A. I believe I may have been working as a part-time bailiff a day or two a week down in the Santa Barbara courts, or I was basically retired.
Q. There you go. But you were aware that the search in this case occurred November the 18th of 2003, right?
A. I was aware that there was a search warrant served, yes, sir.
Q. Were you aware that Detective Lafferty had viewed some of the evidence in this case that you ultimately did a latent print examination on?
A. No, sir.
Q. Were you aware that there was a -- well, let me ask you this: Did you review the reports of other officers?
A. No, sir.
Q. Not even people involved in -- in the print identification aspect of the case, preservation?
A. If I had a question, I went directly to the officer or the person involved and asked.
Q. All right. So were you aware that in December of 2003, that Detective Lafferty wrote a report requesting that the Forensics Bureau please do a fingerprint analysis of this same evidence? 3969

A. No, I am not.
Q. Now, I understand that you were essentially retired and coming back and doing some part-time work during that period of time. But based on your training and experience working in the Forensics Bureau, when somebody makes a request, another officer makes a request for a fingerprint analysis, is that something that the Forensics Bureau is supposed to attend to?
A. The Forensics Unit is a more -- I would say is more of a reactionary unit than an offensive unit. So he would have run his request up the chain of command, and then it would be up to whoever's up making those decisions, and then decide how the unit was to proceed.
Q. Based on your experience -- forget about this case for a moment.
Based on your experience, you said you worked other cases where there were fingerprints, correct?
A. Yes, sir.
Q. And you actually did fingerprint analysis and comparison, correct?
A. That's correct, sir.
Q. All right. And in cases where there are fingerprints on objects, or there may be fingerprints on objects that are seized, is it customary for somebody in law enforcement to say, 3970

1 “Preserve this so that it can be checked for
2 prints”?
3 A. When prints -- I don’t know how to answer
4 this. Not all the time, no. It depends. It’s up
5 to the investigating officer as to what action he
6 wants to take with his evidence, I guess would be a
7 way to put it.
8 Q. All right. If an investigating officer
9 looks at items out at the scene at the time of the
10 seizure, and forms the opinion that somebody ought
11 to check these things for prints, do you expect that
12 to be communicated to the Forensics Unit?
13 A. Yes, sir. Normally they would write up a
14 work request on one of our forms. Send it in. The
15 evidence would be booked in, and then we’d deal with
16 it.
17 Q. And ordinarily that would occur very early
18 in the proceedings, correct?
19 A. Sometimes -- this is the first time I’ve
20 seen it where it’s come up a year later.
21 Q. It came up a year later here, didn’t it?
22 MR. NICOLA: Objection; argumentative.
23 THE COURT: Sustained.
24 Q. BY MR. SANGER: Other than this case, have
25 you seen prints analyzed by your department a year
26 later that were intended to be analyzed at the time
27 the item was seized?
28 A. I did one two and a half years later, but I 3971

don’t know what the intent was when it was seized.
But sometimes there’s a timeline that runs.
Q. All right. So I’m talking about a case where you’re investigating out in the field, the lead detective or the detective assigned to seize the evidence, says, “Yeah, we better check that for prints.” Isn’t it the policy and procedure of your office, the sheriff’s office, to have those items sent to the Forensics Unit within a reasonably short period of time to do the print analysis?
A. Again, that’s up to the investigator in charge of that particular case as to what time, when they want to run, or what they want to do, what tests, or what’s done.
Q. And you would expect that there would be some request, there would be a forensic request; is that right? Let me withdraw that so we can be clear.
There’s a form that you have in your office that can be filled out by the lead detective, or whoever seizes the evidence, to request forensic analysis of an item of evidence; is that correct?
A. That’s correct, sir.
Q. All right. Did you see any such forms in this case?
A. I received a work form filled out in, I believe it was -- July was the date on it.
Q. July of 2004? 3972

A. Yes, sir.
Q. So you did not see a forensic request for fingerprints that was dated before July of 2004; is that correct, sir? In this case.
A. No. And I had very little contact with the unit prior to July of 2004.
Q. I'm asking if you saw -- I'm not asking whether or not you had contact. The question is, did you see a forensic request form that was dated anytime prior to July of 2004?
A. No, sir, I did not.
Q. All right. Let me get the --
May I approach, Your Honor?
THE COURT: Yes.
Q. BY MR. SANGER: I'm going to show you 743, 744 and 745. You were looking at those.
Can I put them right here?
MR. NICOLA: Sure.
Q. BY MR. SANGER: All right. You've got 743, 744, 745, and whose prints -- these are exemplar prints, correct?
A. Yes, sir.
Q. And whose prints on are on which board?
A. Okay. On Item 743, we have Mr. Jackson's fingerprints. On Item 744, we have Star Arvizo's fingerprints. And on 745, we have Gavin Arvizo's fingerprints.
Q. All right. Now, you talked about basic 3973

class characteristics; that is, whorls, loops, and arches, correct?
A. Correct, sir.
Q. Can you tell us, with regard to 743, those fingerprints, what configuration do those fingerprints show?
A. Do you want me to read all ten off?
Q. You can do that.
A. Well, the right thumb is a right slant loop.
The right index is a right slant loop.
THE COURT REPORTER: Slow down, please.
THE WITNESS: Excuse me.
The right middle is a right slant loop. The right ring is a right slant loop. The right little is the right slant loop.
The left thumb is a left slant loop. The left index is an arch. The left middle is an arch.
The left ring appears to be a central pocket loop whorl. And the left little is a left slant loop.
Q. BY MR. SANGER: Okay. Go to 744. Now, that's the one where you've got two sets; is that correct?
A. That's correct, sir.
Q. So you're going to pick your best set and tell us from that, correct?
A. Okay. The right thumb is a right slant loop. The right index appears to be a left slant loop, or a tented arch. The right middle is a right 3974

1 slant loop. The right ring is a right slant loop.
2 And the right little is a right slant loop.
3 The left thumb is a left slant loop. The
4 left index appears to be either a tented arch or a
5 right slant loop. The left middle is a left slant
6 loop. The left ring appears to be a left slant
7 loop. And the left little appears to be a left
8 slant loop, but they're somewhat hard to see.
9 Q. All right. All right. And then on 745?
10 A. On 745, the right thumb is a right slant
11 loop. The right index is a left slant loop. The
12 right middle is a right slant loop. The right ring
13 is a right slant loop. And the right little appears
14 to be a right slant loop.
15 The left thumb is a left slant loop. The
16 left index is a left slant loop. The left middle is
17 a left slant loop. The left ring is a left slant
18 loop. And the left little is a left slant loop.
19 Q. All right. So the predominant feature of
20 all of the fingerprints and cards are that these
21 fingers are looped fingerprints; is that correct? I
22 think you said there were a couple on Mr. Jackson's
23 where it was an arch or a tented arch.
24 A. Mr. Jackson has two arches and a central
25 pocket loop whorl. I think everything else is a
26 loop pattern.
27 Q. All of the exemplar prints, except for
28 those, are loops, correct? 3975

A. Appear to be, yes, sir.
Q. And what percentage of the population has looped fingerprints?
A. About 65 percent.
MR. SANGER: All right. Your Honor, what I'd like to do is go to the Power Point version of the exhibits. And let me just see if I have the right number here.
All right. What this should be --
You can have that back, if you want. I think you wanted it.
With the Court's permission, I'm going to put up 758. And I'm not going to go through all of these. They're in evidence, and -- but just to do it quickly.
Q. This is No. 13 of the 19 cards; is that correct, sir?
A. It's from 317-YY. The exact number I'm not sure. Oh, 13 at the bottom, yes, sir.
Q. Down at the bottom.
Basically, so we don't get any more confused than we need to, there are 19 of these cards?
A. That's correct.
Q. And these are the 19 cards where you showed your comparisons, your points of comparison, and -- correct?
A. Yes, sir.
Q. All right. So I'm just taking this one. 3976

Now, if you look at 317-YY, if you look at the latent print that's contained in this exhibit, that is a partial print, correct?
A. Correct.
Q. And it appears that there may be some torquing or there may be actually another print involved in the latent; is that correct?
A. There's distortion and it could actually -- yes, there's distortion in the print, which has caused it to distort somewhat, yes.
Q. All right. Now, in order to rule out the dissimilarities, you have to account for the dissimilarities as distortion, correct?
A. There is a difference between a dissimilarity and a distortion.
Q. Precisely.
And you have to make that determination, right?
A. That's correct.
Q. Because if something doesn't look the same, putting it in very basic terms, it either is going to eliminate that print from the comparison, or you have to explain it as a distortion, correct?
A. Yes, sir. But at the same time, you're looking for dissimilarities that come up in the wrong spot in regards to ridge flow and spatial alignment.
Q. Okay. I'm going to go to 759. Now, here 3977

you have another partial print, 759. And it
actually looks like whoever did the location of this
print actually wrote over part of the ridge detail
with a black marker; is that correct?
A. There is a black marker pen on the lower
right of the latent print, yes. However, whether it
obliterated any usable ridge detail, I'd have to
examine that print closely to determine that.
Q. Now, either I'm looking at it backwards or
something.
A. Lower left.
Q. Lower left and then across the top; is that
right?
A. Correct. There's a ruler on the right side.
Q. And I'm going to go to 762, which I believe
is that. Once again, there you have -- somebody has
used a black marker pen to note the location of a
print, and has actually obliterated a part of the
latent print; is that correct?
A. They've marked through it. But, again, it
doesn't appear that they have, for the most part,
disturbed any usable friction ridge detail.
Q. Well -- and that's because the usable
friction ridge detail is only what you can see. If
you can't see under it, you don't know what's under
there, right?
A. Well, in that blurred area on the right
would be an unusable area anyway. 3978

Q. Let's talk about that. The blurred area on the right is not shown in the exemplar print, correct? In other words, that is not identical to the exemplar print, the blurred area on the right?
A. I can't tell.
Q. Okay. As you look at it, you cannot identify it as being identical to the exemplar print, correct?
A. Yes, sir, but -- go ahead.
Q. Okay. And can you tell what caused the blurred area on the right?
A. It was probably either distortion, or there was a slippage when the print was laid on the paper, or something else touched the paper. Not knowing what exactly happened to this, I can only make some assumptions.
Q. All right. And similarly here on No. 764, there are some marks, striations, or whatever they are, at the top of the print that are not shown in the exemplar print, correct?
A. That's correct, sir.
Q. And you account for that as distortion; is that correct?
A. That would be slippage at that point.
Q. And that's your assumption, is that that's slippage?
A. Yeah, it appears that the finger had touched the page and pulled down slightly, and then the rest 3979

of the finger sat down on the page, creating a latent fingerprint.

MR. SANGER: All right. Okay, Your Honor, we can turn the screen off, if that's all right. All right. And I have no further questions at this time.

THE COURT: Counsel?

MR. NICOLA: Thank you, Your Honor. May I approach the witness, Your Honor?

THE COURT: Yes.

REDIRECT EXAMINATION

BY MR. NICOLA:

Q. Detective Spinner, I'm going to approach you with Exhibit 726, Exhibit 748. Do you recall examining both of those exhibits on Friday?

A. Yes, sir.

Q. Okay. And during that examination, which I believe I conducted, did I ask you to check the fingerprint depicted in Exhibit 726 and compare it to the fingerprint board, which is Exhibit 748?

A. Yes, sir.

MR. SANGER: I'm going to object as hearsay as to what was asked.

THE COURT: Sustained.

Q. BY MR. NICOLA: Now, Defense Attorney Sanger showed you Exhibit 723 this morning. 3980

A. Correct.
Q. Do you recall that?
A. Yes, sir.
Q. Do you recall ever being shown this exhibit during your testimony on Friday?
A. I don't believe I was, no.
Q. Could you take a look at Exhibit 723 and describe what it is for the jury, please?
A. Item 723 is a printout of the Power Point demonstration created by the sheriff's department for protocol for latent fingerprint processing.
Q. Would you flip through all the pages, please?
Do you have a recollection whether you presented that information to the jury on Friday?
A. No, I did not.
Q. And when was the first time you were asked any questions about testifying as to that exhibit?
A. This morning.
Q. By Mr. Sanger?
A. Yes, sir.
Q. Do you recall ever pointing to a fingerprint in Exhibit 723 and saying, "Well, that's the same one that's in Exhibit 748"?
A. No, sir.
Q. Okay. I think what we'll do is try to work backwards.
Your Honor, if I may have "Input No. 4," 3981

please.
Dim the lights, please. Thank you.
I'm placing on the Elmo machine Exhibit No.
622.
Now, Mr. Sanger asked you some questions
about when and if you knew when a request for
forensic testing came in regarding the magazine
seized from the defendant's ranch.
A. Correct.
MR. SANGER: I'm going to object. Actually,
that misstates the evidence. It was fingerprint
examination.
MR. NICOLA: I believe he used the words
"forensic testing," Your Honor.
THE COURT: The objection's overruled.
Q. BY MR. NICOLA: Does forensic testing
include sending items out for DNA analysis?
A. Yes, it does.
Q. Okay. And in the grand scheme of things, if
you were going to do a DNA analysis on the same
magazines that you would later check for
fingerprints, which analysis would be conducted
first?
A. The DNA analysis.
Q. And why is that?
A. Because the testing process for fingerprints
and the development process could contaminate or
destroy possibly any DNA. 3982

Q. And by “contaminate” what do you mean?
A. Possibly alter the structure. Since
ultraviolet light was being used, it could have
damaged the DNA.
Q. And is contamination essentially
destruction?
A. It can be.
Q. Okay. With respect to fingerprint analysis,
if you contaminate a fingerprint, what have you done
for its usefulness as a print that you can make any
conclusions about?
MR. SANGER: I’m going to object. That’s
vague as phrased.
THE COURT: Sustained.
Q. BY MR. NICOLA: Let me reask. With respect
to a fingerprint, if you contaminate it, what have
you done to its usefulness?
A. It could possibly make it unusable.
Q. Okay. And what kind of -- forms of
contamination can affect a fingerprint in that
respect?
A. Any activity which would destroy the ridge
detail or blur the ridge detail so it could not be
observed or traced or used for a latent comparison
purpose. Cloud the clarity of the print.
Q. Okay. With respect to the DNA testing, do
you have experience sending items to the Department
of Justice laboratory in Goleta for that very 3983

1 purpose?
2 A. I have sent a few out, but it's been several
3 years.
4 Q. Okay. In your experience, does DNA testing
5 or screening from potential DNA testing take some
6 period of time?
7 A. To my recollection --
8 MR. SANGER: Objection; lack of foundation.
9 THE COURT: Sustained.
10 Q. BY MR. NICOLA: Sergeant Spinner.
11 A. Yes.
12 THE COURT: The objection was sustained.
13 Q. BY MR. NICOLA: Do you have knowledge of how
14 long the items that you've sent to the Department of
15 Justice for DNA testing have taken to come back?
16 MR. SANGER: Objection, lack of foundation
17 and relevance.
18 THE COURT: The foundation objection is
19 sustained.
20 Q. BY MR. NICOLA: You have sent items to the
21 DNA lab in Goleta, correct, for testing?
22 A. Yes, sir.
23 MR. SANGER: Asked and answered.
24 THE COURT: Overruled. Next question.
25 Q. BY MR. NICOLA: You requested that DNA
26 examination be done on the items that you've sent?
27 A. We sent items to the DOJ at the request of
28 detectives for DNA analysis. 3984

Q. Okay. And in your experience, do you find the turnaround time for when you receive the items back to be a long period or a short period?
MR. SANGER: Objection. Vague and lack of foundation, relevance to this case.
THE COURT: Overruled.
You may answer.
THE WITNESS: Depending on which lab was used, it could take quite some time.
Q. BY MR. NICOLA: With respect to the magazines and other sexually explicit content that you were asked to conduct fingerprint experiments, or fingerprint examinations on, do you know whether any of those items had been sent to DOJ in early February of 2004 for DNA testing?
MR. SANGER: Objection. This was asked and answered on direct. Beyond the scope.
THE COURT: Overruled.
Q. BY MR. NICOLA: You may answer.
A. I knew that items were at the DOJ lab for testing. I don't know when they were actually sent out.
Q. Okay. So you knew the time frame they had been sent out was --
A. Prior to my attempting to --
MR. SANGER: Excuse me. I'm going to object. It's not a question. No question pending.
THE COURT: Sustained. 3985

MR. NICOLA: Okay.
THE COURT: Let’s take our morning break.
(Recess taken.)
--o0o--

REPORTER'S CERTIFICATE

THE PEOPLE OF THE STATE)
OF CALIFORNIA,)
Plaintiff,)
-vs-) No. 1133603
MICHAEL JOE JACKSON,)
Defendant.)

I, MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304, Official Court Reporter, do hereby certify:

That the foregoing pages 3937 through 3986 contain a true and correct transcript of the proceedings had in the within and above-entitled matter as by me taken down in shorthand writing at said proceedings on March 29, 2005, and thereafter reduced to typewriting by computer-aided transcription under my direction.

DATED: Santa Maria, California, March 29, 2005.

MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA BARBARA
SANTA MARIA BRANCH; COOK STREET DIVISION
DEPARTMENT SM-2 HON. RODNEY S. MELVILLE, JUDGE

THE PEOPLE OF THE STATE OF)
CALIFORNIA,)
Plaintiff,)
-vs-) No. 1133603
MICHAEL JOE JACKSON,)
Defendant.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

TUESDAY, MARCH 29, 2005

8:30 A.M.

(PAGES 3988 THROUGH 4173)

REPORTED MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304
BY: Official Court Reporter 3988

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I N D E X

Note: Mr. Sneddon is listed as “SN” on index.
Mr. Zonen is listed as “Z” on index. Mr. Auchincloss is listed as “A” on index.
Mr. Nicola is listed as “N” on index. Mr. Mesereau is listed as “M” on index.
Ms. Yu is listed as “Y” on index. Mr. Sanger is listed as “SA” on index.
Mr. Oxman is listed as “O” on index.

PLAINTIFF’S WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS
SPINNER, Robert	3993-A			
MASADA, Jamie	3997-Z	4052-M	4132-Z	4146-M
BELL, Cynthia Ann	4149-A	4160-M		

E X H I B I T S

FOR IN			
PLAINTIFF'S NO.	DESCRIPTION	I.D.	EVID.
623	Copy of check to David Arvizo	4029	4138
624	Copy of check to David Arvizo	4028	4138

THE COURT: Counsel? Go ahead.
MR. NICOLA: Thank you, Your Honor.
Q. It's still morning. Just a few more questions, Sergeant Spinner.
With respect to the 19 fingerprint comparisons that you've testified to in court over the past few days, was there anything about the exemplars which prevented you from making the specific positive identifications that you've testified in front of the jury about?
A. No, sir.
Q. Okay. And I believe Mr. Sanger asked you whether you had sent the fingerprints out for independent verification. Did you, in fact, do that?
A. Yes, sir, I did.
Q. And whom did you send those prints to?
A. Mr. Pat Wertheim.
Q. Who is he?
A. He's an internationally recognized fingerprint expert. He basically started the McKee case in Scotland when he recognized the bad fingerprint comparison which was conducted by the Scotland office. And he's on the SWGFST committee. And he is a very learned individual, and I consider him a mentor and a teacher.
Q. Did he verify the 19 results that you've testified to in court? 3992

A. Yes.
MR. SANGER: Objection. Calls for hearsay;
move to strike.
THE COURT: Sustained. It's stricken.
Q. BY MR. NICOLA: Did he disagree with any of
your comparison work?
MR. SANGER: Objection; calls for hearsay.
THE COURT: Sustained.
Q. BY MR. NICOLA: Typically in a fingerprint
case, the defense has the opportunity to reexamine
any of the work that you've done by their own
experts, correct?
A. That's correct.
MR. NICOLA: I have no further questions.

RECROSS-EXAMINATION
BY MR. SANGER:
Q. Okay. Just a few things. You talked about
723 and 748. And it's your position that 723 is not
the fingerprint depicted in Exhibit 748, right?
A. If I remember correctly, 723 is not a
fingerprint exhibit.
Q. Right. So if you testified to that earlier,
that would have been a mistake on your part,
correct?
MR. NICOLA: Objection. That question
assumes facts not in evidence.
THE COURT: Overruled. 3993

You may answer.
THE WITNESS: Yes, sir.
Q. BY MR. SANGER: And you indicated that your experience involved 80,000 fingerprints, and then you said, “Well, it may have been 120,000.” That’s a 50 percent increase in the number of fingerprints.
MR. NICOLA: Objection. Beyond the scope of redirect and it’s argumentative.
THE COURT: Sustained on beyond the scope.
Q. BY MR. SANGER: Now, you talked about DNA testing. My understanding is that you haven’t sent anything out for DNA testing yourself for a number of years, correct?
A. The last time I was involved with sending anything out for DNA testing was prior to August of 2003.
Q. Okay. So you don’t know how long DNA testing -- let me withdraw that. You don’t even know what DNA testing was done in this case, if any, correct?
A. I do know that some items were sent to the Goleta DOJ lab.
Q. Do you know what testing was done?
A. They were sent for DNA analysis, as far as I know.
Q. But you don’t know what testing was done?
A. No, I do not know what DOJ did with those items. 3994

Q. And you don't know for how long they held them and for what reason?
A. That's correct.
Q. Now, Exhibit 470, I'll just hold it up here. Exhibit 470 is that briefcase, right?
A. That's correct, sir.
Q. All right. And the items that you formed an opinion on involving your opinion that the prints were from Gavin and Star Arvizo, all were derived from this briefcase; is that correct?
MR. NICOLA: Objection. Misstates the evidence; lack of foundation.
THE COURT: Overruled.
You may answer.
THE WITNESS: Part of the items came -- of the prints that were made came from the items that we got back from Department of Justice on 8-3. And the rest of them, I believe, came out of the black briefcase, which I got on 10-5.
Q. BY MR. SANGER: Okay. They were all 317, correct?
A. They were all 317, yes.
Q. So your understanding is, based on your experience in your office, that they're all Item No. 317. They would have come out of Item No. 317, right?
A. Correct.
Q. And this briefcase was Item No. 317. It's 3995

now Exhibit 470, but it was Sheriff's Item 317,
right?
A. That's correct.
Q. All right. And you have no way of knowing
if and when or whether or not Star or Gavin Arvizo
opened this briefcase and looked through it, do you?
A. I have no knowledge what happened to that
briefcase prior to 10-5.
MR. SANGER: All right. I have no further
questions.
THE COURT: Anything else?
MR. NICOLA: No, Your Honor.
THE COURT: All right. Thank you. You may
step down.
Call your next witness.
MR. ZONEN: We'll call Jamie Masada to the
stand.
THE COURT: Come to the front of the
courtroom, please. When you get up to the witness
stand here, please remain standing.
When you get to the witness stand, face the
clerk and raise your right hand.

JAMIE MASADA
Having been sworn, testified as follows:

THE WITNESS: I do.
THE CLERK: Please be seated. State and 3996

1 spell your name for the record.
2 THE WITNESS: My name is Jamie, J-a-m-i-e;
3 and my last name is Masada, M-a-s-a-d-a.
4
5 DIRECT EXAMINATION
6 BY MR. ZONEN:
7 Q. Mr. Masada, good morning.
8 A. Good morning, sir.
9 Q. What do you do for a living?
10 A. I do -- I have a Laugh Factory Comedy Club.
11 BAILIFF CORTEZ: Sir, I need you to speak
12 into the microphone.
13 THE WITNESS: Oh, I'm sorry, I apologize.
14 Q. MR. ZONEN: We have to do this with
15 everyone.
16 A. I'm sorry, I apologize.
17 I own The Laugh Factory Comedy Club. And I
18 do a couple of different kind of charities. I'm
19 involved with different charities to help kids and
20 homeless people and different stuff.
21 Q. Let's start with The Laugh Factory. What is
22 The Laugh Factory?
23 A. The Laugh Factory, sir, is a comedy club
24 that some of the people, well-known comic or unknown
25 comic, they come up there, they get their break.
26 And we bring studio people, or somebody come see
27 them and look at them. Maybe some of them, they
28 have a talent, they get a break on, they become 3997

famous.
And it's people that come in, ordinary
people that come, they pay admission to come in to
watch the talent.
Q. How many Laugh Factories do you have now?
A. I have -- I did have another one in Hawaii,
closed for temporary. Right now two, sir.
Q. Okay. One is in New York City?
A. Yes, sir.
Q. And the one in Hawaii is temporarily closed?
A. Yes, because of the hotel remodeling.
Q. Where in Hawaii is it?
A. In Waikiki.
Q. Okay. Now, the original one is the one in
Los Angeles; is that correct?
A. Yes, sir.
Q. When did you open The Laugh Factory in Los
Angeles?
A. 1979.
Q. How did that come about? How did you come
up with such an idea?
A. Oh, God. Okay. Let's see where I can
start. It was -- at that point I was a comedian.
There was a strike going on about comedian. And the
comedian that wasn't getting paid. And one of the
comedian, John, from the Hyatt House, jump down, and
he actually kill himself. And I was very disturbed
and upset. And I thought, I got to do something. 3998

So at that point, I walking down the street and I saw a place for lease, and -- I find that place, and I came up with the name “Laugh Factory.” I started Laugh Factory, and it was the first club where I paid the comedians.

Q. Mr. Masada, how old were you when you leased that space and opened The Laugh Factory?

A. I wasn’t even 16. I put it under name of Neil Israel at that point, because he was -- he backed me up and he was the person -- he actually --

Q. You were 16 years old?

A. Yes, sir. About almost 17, and a half, yes.

Q. Did you actually speak English at the time?

A. I don’t know. I’m still -- I think I still am not speaking that good English anyway.

(Laughter.)

Q. When you came to this country, did you speak English?

A. Not much. “Hello, how are you?” That’s about it.

Q. How old were you when you came to this country?

A. 14.

Q. From where?

A. Directly from Israel. Iran, Israel and here.

Q. And to the United States?

A. Yes, sir. 3999

Q. Excuse me. Tell us what the comedy camp is.
Well, before I do that, let me go back to The Laugh
Factory.
A. Yes, sir.
Q. It has been in existence for a number of
years now?
A. Yes, sir.
Q. Would it be safe to say that a number of
well-known comedians have passed through The Laugh
Factory?
A. I mean, the number of well-known comedians,
they still come through The Laugh Factory all the
time.
Q. Tell us who. Who are some of the guests who
have come through The Laugh Factory?
A. Last couple of weeks, Jon Levitz. Chris
Rock. Robin Williams. I could name many, many
people that come.
Q. Name a few more.
A. Bob Saget. Chris Tucker. God, George Lopez
sometime. Paul Rodriguez. Paul Mooney. They all
stop by.
Q. Okay. Now, tell me about the comedy camp.
What is that?
A. The comedy camp is for underprivileged kids,
the kids that they don’t -- the kids that are
disturbed or underprivileged, and that’s how I
created for. 4000

Q. And what is it?
A. It's bringing the kid in, and bringing -- asking all of the well-known comedian to come in to teach them a little bit of confidence and give them a little bit of confidence through life. Some of them, they might become a comedian. Some of them might not become a comedian. But you give them confidence. You give them this big star teaching them how to perform, how to go through life and be confident in life.
Q. Are these principally underprivileged children?
A. Most of them underprivileged children, yes, sir.
Q. And what does that mean? I mean, what is the criteria for somebody to get into the comedy camp?
A. If -- you know, if I see the kid, for example, they are shy, they don't have -- they cannot -- like, they don't have ability to talk in public.
Or I see people that they really come from very poor family, or single family, or -- most of them they come out there, they don't even have family. They are living in group home. They live -- stay in foster homes. And that's the type of kid we get in comedy.
But sometime, you know, you get a few of 4001

them that they are -- you know, they are -- what you call them? They're talented and they're kids, and their parents push them in, and you bring them in, and they are -- you know, we don't -- we overlook that they are not poor. But most of them, they are underprivileged people.

Q. All right. Do you do the evaluation to decide who gets into the comedy camp?

A. Yes, sir.

Q. Do you meet with every child who comes through the comedy camp?

A. Yes, sir.

Q. Have you maintained relationships with many children who have passed through the comedy camp?

A. Most of the time. Yeah, most of them. Some of them, all of a sudden I don't hear from them. But 90 percent of the kids always talk to -- they call me back anytime they are in trouble or anytime they are in any kind of problem, they call me. They ask me for help, you know.

I mean, like last night before coming here, one of the kids, you know, has -- he walked out of the foster home, and he comes by, you know, the place. And he was -- I don't know if he was on drugs, whatever, whatever. You try to help him out. You try to give him direction. Give him a little bit of financial. "Hey, you got to go back. If you don't go back to your foster home, you're going to 4002

get arrested," that type of stuff.
Q. Tell me how the comedy camp is structured.
A child who comes into the camp, how often do they come? How regularly? Who do they work with? What do they do?
A. Most of the kids that come to the comedy camp, the structure of the comedy camp is we usually take about 30, 40, maybe -- sometime if -- we have none; sometime have gone over 40 kids; 45, 48 kids. And they usually come in, a lot of them come in from Los Angeles County Department of Children Family Services. They bring a lot of kids that they need they help. They bring them to me.
And they usually -- the comedy camp meet once a week, on Saturdays. We provide them lunch, and they get -- I call some of the people that -- one of my greatest -- one of the best person was coming to comedy camp that always encourage a lot of kids, it was Richard Pryor. He would come in always. He was one of the greatest. He came in, and he always encouraged kids. And he encouraged that. He came from a whorehouse. "Look at what I made, what I made of myself. You guys can do the same thing."
Q. Mr. Masada, how many kids do you think have gone through the comedy camp since you founded it?
A. I think around -- I am not sure. I think over 400; 400 people. 4003

Q. Is there actually a graduation ceremony of sorts?
A. Yes, sir.
Q. What do you do?
A. We prepare the comedian -- we take the kids, we gave them to one of -- another comedian, well-known comedian. Well-known comedian take that kid and coach them in last few days.
And then we have a night, and we going to try in front of real audience. They go on, and they get paid for it, and they become a real comedian. They get a flag. They get gifts. They get -- a lot of stuff they get. And they are very cheerful. We have a cake for them. And it's kind of like a little ceremony, our own ceremony.
Q. Do kids stand up and do a comedy routine?
A. Yes, they do.
Q. For how long? How many minutes do they get to be up there?
A. They usually do three minute. Sometimes the kid is very, very talented. I seen them, they go on as much as seven, eight, ten minutes. I mean, it depends on the kid, how much talent it is.
And we try to teach them -- they have a little light. We have a red light we give them. And if the red light goes on, they got to get off, and sometimes they don't see it.
Q. Do they write their own material? 4004

A. They usually write their own material.
Except celebrity type of comic help them out last
few days, help them out to, say, punch up their
lines or punch up their material.
Q. Are they encouraged to do material that
they’re familiar with, things about themselves or
their lives?
A. Yes, sir. We are always encourage them to
talk about the pain, because I -- personally, I
believe laughter is the healing. Laughter is, you
know, something that could heal, and it could -- I
work with a Norman Cousins quote, and he wrote a
book called “Laughter is the Best Medicine,” and I
believe in that.
I believe in, because this kid, they never
got a chance to be a kid. So I think by expressing
themself and talking about the pain they going
through, they heal the whole thing. And that’s --
that’s what’s comedy camp.
Q. The child who enters the comedy camp will
come how many weeks before graduation?
A. Ten to twelve weeks, sir.
Q. Is it always during the summer, or is it
year-round?
A. No, it’s always in the summer.
Q. And what day of the week is it that they
come?
A. Saturday, sir. 4005

Q. Do they ever come on a Monday?
A. No. They come in maybe -- on Monday they come in if it's -- for example, a celebrity want to meet with them on Monday before graduation.
Q. Uh-huh.
A. They might do that --
Q. Okay.
A. -- on Monday, coming in. For example, some big celebrity comes in and said, "I don't have to come in -- I don't have time to come in on Saturday or Sunday, but I'll meet you Monday. Let's go over material in the club and I help you out." That has happened.
Q. Do you try to make sure that a celebrity is with every child?
A. Define what's the "celebrity."
Q. Somebody who's a working, practicing stand-up comedian, earns a living doing that.
A. Yes, the person making a living out of it, yes. I try to find some people that they are mostly, you know, known.
Q. So it is, in effect, a mentorship of sorts?
A. Some type, yes, sir.
Q. Do you know the Arvizo family?
A. Yes, sir, I do.
Q. And how did you become familiar with the Arvizo family?
A. I think, if I'm not mistaken, the first time 4006

I met Arvizo family was -- was the first time we had a comedy camp at the club. And I believe, if I'm not mistaken, is a gentleman called Eric Site. He was from Los Angeles County Dis -- the Los Angeles County Children and Family Services.
He recommend them, or teacher recommended to him, and he brought them in, or he told the mother to bring them in, and they came in.
And the first time I met them, they went on the stage and I watched them, what they doing, what's going on. And it was at that point was I believe on the time that I was doing interview.
Eric Site was present, a lady called Julia Now was present. It was Robert Harper was present. It was Jo-Jo was present.
Q. Who are you talking about? These are people who evaluated their entry?
A. These are the people that sit back watching and seeing it. And it's a gentleman called Patrick Press (sic) from FOX TV was there that year, was doing a -- what you call -- was doing a documentary about comedy camp. His name is Patrick Press (sic). And he was with his filmmaker, with a cameraman.
Q. Did you interview the Arvizo family to determine whether they should come into the camp?
A. Yes, sir, I did.
Q. And how many kids were there?
A. Three. 4007

Q. Can you name them for us?
A. Yes. It was Star. It was Davellin. It was Gavin.
Q. Okay. Did you meet their mother?
A. Yes, I did.
Q. And what is her name?
A. Janet.
Q. Did these kids come for the entire camp academy, from the beginning to the end, and graduate?
A. I think they came in except one time, as I recall, because they did not have enough money to get bus to come in. They were coming in with bus.
Q. Coming with what?
A. Except one time they did not have money, or something to get the bus to come in.
Q. Oh, take the bus.
A. Take the bus to come in.
Q. So you think they may have missed one session?
A. I think I -- may I take some water, if you don’t mind? I’m sorry. I’ve got a cold. I’m trying --
Q. You’re not alone.
A. If you wanted some Cold-Eze, I have some Cold-Eze for you.
(Laughter.)
A. All right, sir. 4008

Q. As long as we don't give it to the jury.
A. No, I won't.
I'm sorry, I'll talk this way. I'm not
talking that way, I'm sorry.
Q. Mr. Masada, was it your understanding that
they would commute each time they came to The Laugh
Factory by public transportation or by bus?
A. Yes, sir.
Q. And on each of those occasions, did Janet
Arvizo bring the three children there?
A. Yes, sir.
Q. Did you get to know them during the period
of time that they were at The Laugh Factory comedy
camp?
A. Yes, I did.
Q. All right. Did you develop a friendship or
closeness with any of the children?
A. I usually -- you know, all of them, I look
at them the same way. You know, I don't look at one
kid is better than another kid. You know, all of
them, to me, they were all like my own kids. So all
38, 40 of them, whatever were there, all of them --
I looked at them the same way. I didn't make
special effort to be more friendly with them than
the other different people.
Q. What year was the academy that they went to,
the comedy camp that they went to?
A. The Laugh Factory comedy camp was on 1999. 4009

Q. Do you have a sense of how old the children were when they went?
A. Yes.
Q. Tell us.
A. I believe one of the kids was eight. One of them was nine. One -- no, one of them was eight. One of them was nine. One of them was 13.
Q. 13 being the daughter?
A. The daughter. Yes, sir.
Q. And who was eight and who was nine? Do you remember who was older?
A. Yeah, I believe Gavin was nine. Star was eight.
Q. All right. At some point in time, did you learn that one of the children became ill?
A. Not after I heard -- they graduated. Everything went perfect. The documentary was on FOX TV. Everything was perfect. Then I keep in touch, you know, for their birthday, or giving something, or if they need some money, or anybody needs something, they always call me they need some help. And the next time I heard, I was keeping contact with them, the mother called me, said that Gavin have cancer, and he's sick, he's ill. And I kind of was in shock. "What's happened? What's going on? Where we going?" "Tomorrow we going to see another doctor," this, this. 4010

1 They call me. I don't know when I was
2 called.
3 And then I got another call that they going
4 to go operate. I said, "When they go operate?"
5 They said such and such. And I said, "I'll be
6 there."
7 Q. Mr. Masada, who was it who called you?
8 A. Janet.
9 Q. Did she ask anything of you, any favor of
10 you, or ask you to do anything on her behalf?
11 A. Yes, she did.
12 Q. What was that?
13 A. She said I should pray. She ask me if I can
14 pray, and thank you for all of the help I did. If I
15 can pray. And I said, "Okay, I'll go to church
16 tomorrow and do some prayer."
17 Q. And did you go visit Gavin at the hospital?
18 A. Yes, I was there the time they operate, and
19 I went there every day afterwards.
20 Q. Who was Gavin's mentor while he was at the
21 comedy camp?
22 A. God, the time -- the graduation you mean?
23 Q. Yes.
24 A. Or the time -- or the whole thing?
25 Q. If there was more than one, tell us.
26 A. Oh, yeah, there was -- I believe, if I'm
27 not mistaken, Paul Rodriguez was one of them. Bob
28 Saget was one of them. Rob Schneider was one of 4011

them. Eddie Griffin was one of them. Dave Chappell was one of them.
Oh, God. Let me think. My memory is not that great. Forgive me. Especially cold.
Who else was -- I believe Howie Mandell was one of them. And who else was it? Come on. Paul Mooney was one of them. Oh, God, come on. How many did I call? How many names I say?
Q. Well, let me ask it this way. You've mentioned a whole bunch of names. Are these people that came in during the course of the entire camp?
A. Yes, they came through the whole camp. And each time they came in, they become a mentor to them for that week.
Q. Oh, I see. Okay. Do you know if there was one in particular that worked with the Arvizo children on more than one week?
A. Oh, yeah, George Lopez.
Q. George Lopez?
A. Yes, I'm sorry.
Q. And you do recall that at this time?
A. Yes, sir, I do.
Q. When you went to see Gavin at the hospital the first time, how did you find him? I mean, in what condition did you find him?
A. I -- oh, God. After operation or before operation?
Q. When was the first time? Before the 4012

operation or after?
A. Before operation. He was -- he was kind of like a -- his stomach was big. He was yellow, and his -- he looked like a -- very, very sick, like something was -- you know, all with -- his face was all white and yellow. He had no color in the face.
And after operation, I kept on going, and -- oooh, God, don't bring that memory back.
I kept on going. And anytime I go up there, I see a poor kid every day, he's deteriorating. All of a sudden, I see he lost his hair, because they were -- you know, after a while they -- the operation and everything, they gave him chemo. And all of a sudden he lost his hair. He kept on losing weight. I think -- I'm -- without exaggeration, I think he was -- one time he was -- weighed about 60, 65 pounds. He was bone and skin.
And then I would watch. I would go every morning, I would take some doughnut for the nurses up there and to go see them, and to see her -- to see him every day, every morning. And he was deteriorating to the point of -- it was unbelievable. I would go there, I would walk out tear in my eyes, because I didn't know what to do. What do you do with a kid like that?
And at one point --
MR. MESEREAU: I'm going to object to the narrative. 4013

THE COURT: Sustained.
THE WITNESS: I'm sorry. I'm sorry.
MR. ZONEN: Let me move on.
THE WITNESS: What did I do wrong?
MR. ZONEN: We have our own rules here.
It's a little bit different.
Q. When -- you were visiting him on a regular
basis; is that right?
A. Yes, sir. Yes, sir.
Q. Would you bring things for him?
A. I would -- I don't -- I'm not very good --
I'm sorry. I'm not very good with giving gifts.
And I give them financial. You know, I go up there,
"Hey, if you eat, for example, today, if you eat, if
you keep what you doing, I give you 50 bucks."
This, this.
I kept on encouraging to give them. "If you
save your money, I put all of your money together.
When you get better, me and you, we go shopping.
Here's $50. Here's that, that." I give him every
week some money, a $50 bill.
Q. A $50 bill?
A. Yes, sir.
Q. Did you do that more than once?
A. Oh, yeah.
Q. How many times do you think you gave him $50
bills?
A. Oh, God, I think about six, seven times. 4014

Q. Was encouraging him to eat an important thing at that time?
A. Yeah, the doctor -- one time, the doctor -- you got to picture, this kid is dying. The doctor told me he has two, three weeks to live. So me, I was trying to do everything I can in my power. And the doctor told me, “He’s -- he’s -- right now, he’s deteriorating. If he don’t eat anything, if he doesn’t” -- they were feeding him food from his wing. “And if he doesn’t eat, if he doesn’t eat - encourage him - he’s going to die.” So what I would do every morning, I would have a comedian with me, different comic every morning, different comic would go with me and cheer him up, tell him a joke. And beside that, I would go up there in the hospital, I tried to give him food, you know, to eat, to feed him.
Q. Mr. Masada, you really grabbed comedians out of the club, took them to the hospital and said, “Start telling him jokes”?
A. Yeah, I --
MR. MESEREAU: Objection; leading.
THE WITNESS: What did I do now?
THE COURT: It’s not leading. But it’s something. I’ll sustain it.
(Laughter.)
THE WITNESS: I’m sorry. Did you say something to me? 4015

THE COURT: It's not to you, no.
THE WITNESS: No? I'm okay?
THE COURT: I'm talking to the attorneys.
THE WITNESS: All right.
MR. ZONEN: Would you like me to do that
differently?
THE COURT: Yes.
Q. BY MR. ZONEN: Tell us how you did that,
please. Tell us what you did with comedians.
A. A comedian always have -- say Bob Marley,
Dane Cook, Frazier, me, I say to any of them, "Guys,
meet me in the morning. We got to go to" -- each
one of them, they would -- wake them up in the
morning, I would drag them with me to the hospital.
And they would go up, and just kind of make
a little scene for him, "Bah, bah-bah," whatever he
did, little joke, like a clown, make a little smile
on his face. That's what we tried to do.
Q. Did this go on for months?
A. Yes, sir.
Q. Did you give him other gifts during that
time?
A. Not -- not gifts. The example, I give him
money, you know how I give him money all the time.
Q. Was there a point when he was well enough to
go home and then begin the chemotherapy treatments?
A. No, he would -- he didn't go home right
away. It was sometime we were trying -- you know, 4016

one time, point, it was almost that he was dying and he's -- you know, we were trying to feed him food. And his mouth -- because he was taking chemotherapy, when you take chemotherapy, your mouth is all bleeding. It's like your skin in mouth is gone. You -- your mouth has no skin or anything go in your mouth, it's like bleeding.
So I was encouraging, trying to give him ice cream. I chopped -- what they call it? -- cantaloupe in his mouth. "If you eat, I'll do this, I'll do this, I'll do that." And I keep on encouraging him for different stuff to eat. And I do anything I could do, clowning around, doing anything I can to make him eat. At one point he --
Q. Mr. --
A. I'm sorry. At one point he had an O negative blood, too.
Q. That's what I was going ask you.
A. Oh.
Q. Did you commence a blood drive or do something to facilitate a blood drive?
A. Yeah.
Q. What did you do?
A. He had O negative, I heard, from -- what's the name of that, the blood drive that they do? The blood drive. It's not Salvation Army. No, what's the blood drive? Come on. Red Cross.
Q. Red Cross? 4017

A. I'm sorry. Red Cross.
I heard from Red Cross that they were --
didn't have enough blood, blood for him. So what I
did, I put on my marquee, I put the sign on the
door, "Anybody go give blood to the kids, they can
come in and get -- come in the club, get free in the
club," and they get food free.
The people, they went -- actually, I have
like a one night of like a gathering for them. They
come to the club and they have everything on the --
I have some good comedians, watch good comedians,
all of them, for me to encourage people to go give
blood.
And one time Red Cross came in the club
actually and they did a blood drive in the club. At
the time we encourage people, comedian, go on the
stage, tell jokes at the time the people give blood.
So we got creative. And I encourage -- and I got a
couple of radio station and a couple of T.V.
station. Mostly T.V. station. I got ABC, I got
NBC, to do a little promo about the blood, if they
can get somebody with blood coming in, if they can
do something about the blood.
And they did. As a matter of fact, Phil
from -- from ABC came in -- he came in the hospital
with a camera and he talked to me, and he showed
me -- I feed him the blood -- I'm sorry, feed him
the food, and -- sorry. So -- 4018

Q. Let's move on.
Did you ever do a fund-raiser on behalf of
Gavin Arvizo out of The Laugh Factory?
A. Yes, we did.
Q. All right. Were you working with anybody in
particular on that?
A. What do you mean, did I work with anybody
particular?
Q. Well, were you the one organizing?
A. Yes, sir.
Q. Do you know how many fund-raisers you did?
A. I think I -- you know, with blood drive,
everything, financial one was couple of them. I
think we did two, yes.
Q. And that's separate from your efforts to
encourage blood donation?
A. Yeah, the blood donations was kept another
thing. We did different things for them, yes.
Q. How does it work that you do a benefit,
financial benefit for somebody through The Laugh
Factory? How does that work?
A. The way it works is we -- we have a person,
for example, if it's charity, if it's not a charity,
somebody else it is that they want a fund-raiser, we
give them -- we say, "Here is the door. Whatever
people that come in, you collect the money." If
it's charity, they collect the money. And the money
goes to them. 4019

My employee instructions are, “Do not touch their money. Their money is their money.” Whatever -- some poor people come in and give them $20, some people give them 50, whatever they want to give them, and that’s what we do. And they take the door. If there’s anybody -- people they want to buy a drink or they want to buy anything else, we keep it. We don’t give it back. But the rest of it all go to the charity.

Q. Okay. Mr. Masada, do you know David Arvizo?

A. Yes, I do, sir.

Q. And how did you meet him?

A. I met him in the hospital. First time I met him in the hospital.

Q. All right. You had already known Janet Arvizo; is that correct?

A. Yes, I did.

Q. Was it your understanding that David was Janet’s husband?

A. That’s what I was introduced by.

Q. And the father of the three children?

A. Yes. Yes, sir.

Q. Did you become involved with David Arvizo in fund-raising efforts in some fashion?

A. Yes, sir.

Q. All right. Was he involved in the two fund-raisers at The Laugh Factory?

A. Yes, sir. 4020

Q. Was Janet Arvizo there at either of those two?
A. As far as I remember, I don't recall Janet be there at all.
Q. Do you know how the money was collected on either of those two occasions, those two fund-raisers?
A. Yes. I believe first time was David and -- David and -- David and the kids. I told them, you know, "Here is the table. Sit in here." And I wanted somebody else sit with them. I don't know who was it, but they sit by the door. Whatever they came in -- you know, most of my audience, they come in, they gave them money, whatever they gave them.
Q. Do you know approximately how much money would have been raised on either of those two fund-raisers based on your experience in the past?
A. Oh, God. I don't think it was anywhere -- you know, I don't think it was -- any of them was more than 2,000 bucks. I don't think so. Never to near 2,000 bucks. Maybe, eight, 900, 1200. I have no idea.
Q. Okay. Do you think that 2,000 would be the maximum they would have received?
A. Yeah, maximum. Maximum, I would think.
Q. On either of those two occasions, did you collect the money or somebody working with you collect the money? 4021

A. No. They did it. They did it. I think one time, as I recall, David had sat down with one of the employees that collect the money. And the employee that sat down, David and the employee sat down, and David was very upset because George Lopez was supposed to be there, and George Lopez didn't come out. And George Lopez had an argument with him, whatever, and he was kind of like upset. And I took the money, I brought it up, I gave it to him upstairs.
Q. Okay. Do you know how much money that was?
A. I think it was about 800, thousand dollars, or something like that. 800, 900.
Q. During the time that you knew George -- that you knew David Arvizo, did he ever ask you for money?
MR. MESEREAU: Objection; hearsay.
THE WITNESS: What do I do?
THE COURT: Just a moment.
Sustained.
MR. MESEREAU: I'll withdraw the objection.
I'll withdraw it.
Q. BY MR. ZONEN: Did David Arvizo ever ask you for money?
A. Yes, he did.
Q. How often?
A. Many time.
Q. How often is "many"? Give us a sense. 4022

A. Anytime he was bringing the kids in, in to visit me in the office, or I would go, he would walk out with me. He said, “Well,” you know, something, “We haven’t had soup, we haven’t had lunch.” I mean, poor guy. You know, I gave it to him, because I wanted to give it to him. Poor guy, he needed money for eating, whatever. He was unemployed. And I gave him whatever. You know, anytime he asked me, I gave him some cash.
Q. Did he tell you he was not working?
A. Yes, he did.
Q. Did he tell you why he was not working?
A. No, he did not. I mean, I assumed, but I didn’t ask, “Why you not working?” Because his kid was sick in the hospital.
Q. Did you ever see Gavin’s mother, Janet Arvizo, at the hospital when you visited?
A. Yes, several times I saw her.
Q. Okay. Was she there as often as David was there, could you tell?
A. No -- the time I was going there, no, she wasn’t at often. But I was going early in the morning usually, because my days start in the morning, early in the morning. And, no -- I mean, several times I saw her, but, no, not that often.
Q. Did you maintain communications with Janet Arvizo during the time that her child was sick?
A. Yeah. 4023

Q. You would talk to her?
A. I talked to her once a while. She call me once in a while. Yes, she does.
Q. Did Janet Arvizo ever ask you for money?
MR. MESEREAU: Objection; hearsay.
THE COURT: Sustained.
Q. BY MR. ZONEN: Did you ever give Janet Arvizo money?
A. No.
Q. But you gave David Arvizo money; is that correct?
A. Yes.
Q. How much money do you think you gave him during the period of time his child was sick?
A. You are going to think I'm crazy, but I have no idea. You know, I had money in my cash -- in my pocket, you know. I go out there, you know, he asked me for some money, I gave him, 50 bucks, 40 bucks, 70 bucks. And sometime he asked me for gas for car, because he had a car now. He have a "sudan" car that Michael Jackson gave it to him, and he was -- he said he was losing a lot of gas and he need more money for gas. You know, I just gave him the money.
Q. Did you ever see the vehicle he was talking about?
A. Yes, I did.
Q. And what was it, what kind of vehicle? 4024

A. One time he came in the office with a kid, with his two kids, he say, “Oh, Jamie, you got to come see.”
“What’s going on?”
“Come on, I want to show you something.”
And I went, “Okay.”
And I went outside in -- on Laurel, and I saw his car was parked in front of the fire hydrant. I said, “Man, this is your car?” He say, “Yes.” I say, “You’re in front of the fire hydrant.” And he parked there, and he opened -- it was a white car, like a -- what you call it? A su -- a “sudan” car, SUV -- what you call it?
Q. An SUV, sport utility vehicle?
A. Sport utility car.
And I remember one thing particular about the car, a T.V. was on the dashboard. A T.V. was on the dashboard. And he said -- I said, “Well, what -- why did Michael give you that car?” He said, “Michael gave me the car so I can take the kid to Neverland.” I said, “Oh, that’s very nice. That’s very generous of him.”
And that’s -- that’s the conversation I had with him.
Q. Do you know how long he had that car?
A. I have no idea.
Q. At some point in time, did you have a falling-out with David Arvizo? 4025

A. Not really. I never had a fall-out with him.
Q. All right. Was there an incident that took place involving a wallet, a conversation with him about a wallet?
A. Yes.
Q. All right. What was that?
A. It was -- the first time happen, it was in my club. He came in my office one time. And I remember precisely that whole thing, because I did not have money, cash in my pocket.
He came in my office, and he ask that -- he said that Gavin went to George house and somehow he left his wallet with 300, $350 in it, in George house. He lost it in George Lopez's house.
And I said, "Oh, really?" I said, "Gavin, this happened?" And Gavin didn't say anything. And I just kind of like, "Gavin, this happened? He said, "No." I said -- and David went near Gavin and he said, "Tell him that happened." And Gavin didn't say anything.
And I just -- my phone rang. And I tried to pick up the phone, and then I realized Gavin said, "Oh, dad," like some -- kind of like David elbowed Gavin, or something.
And I knew that his face -- Gavin's face got all red, like the -- the time David hit him, his face was red, and, "Dad," and something like that. 4026

And at that point, I said, “Wait a minute, wait a minute, wait a minute. Guys, come on, let’s -- let me -- what was it? 350?” Whatever. I wrote him a check. I said, “Here’s the check. Go -- here.” I gave him a check for $350. I said, “Don’t even mention it. First, the money was from me. I gave you guys the money. Don’t even get that.”

Because I got really upset, because this kid is sick. He elbowed him or something. I didn’t see what’s happened, but I could see from the face of the kid, he did something to him.

Q. Did Gavin ever say anything to you to confirm that 300 or $350 was missing from his wallet?

MR. MESEREAU: Objection; hearsay.

MR. ZONEN: State of mind, Your Honor, and explains the behavior.

THE COURT: The objection is overruled. Go ahead.

THE WITNESS: I answer?

THE COURT: You may answer.

THE WITNESS: What was the question again? I’m sorry.

THE COURT: I can have it read back for you.

THE WITNESS: Oh, thank you. Thank you, sir.

(Record read.) 4027

1 THE WITNESS: No, never said that.
2 MR. ZONEN: May I approach the witness,
3 Your Honor?
4 THE COURT: Cross-examine?
5 MR. ZONEN: No, I'm not done. I said, "May
6 I approach the witness?"
7 THE COURT: I'm sorry. Yes, you may.
8 (Laughter.)
9 MR. ZONEN: I'm losing my voice.
10 THE COURT: I was just trying to hurry it
11 along. I'm sorry.
12 (Laughter.)
13 Q. BY MR. ZONEN: I'd like to show you an
14 exhibit. This exhibit is marked as Exhibit 624 for
15 identification. Not yet in evidence. Take a look
16 at that, please, and both pages of it. I'll leave a
17 second exhibit here as well.
18 A. Okay.
19 Q. Do you recognize that?
20 A. Yes, sir, I do.
21 Q. And please tell us what that is.
22 A. That's a check for $350 to David Arvizo.
23 Q. All right. Is that, in your opinion, the
24 check that you wrote him at that time?
25 A. In my opinion, yes.
26 Q. And the date that's on there, what is the
27 date?
28 A. 10-13-00. 4028

Q. All right. Would that date have been written on that check accurately? In other words, would you have written the same date on the check as was the date that you wrote it?
A. I think so.
Q. Okay. Okay. There's a second exhibit, which I think is 623, right next to you. Go ahead and grab that one and take a look at that.
A. Okay. This one?
Q. Yes, please.
A. All right.
Q. And confirm that number. That little kind of pumpkin-colored tag on the bottom should have a number on it.
A. This is 623. Case No. 1133603.
Q. That's fine.
A. People --
Q. That's fine. It is 623. What is that document that you're holding?
A. It's a copy.
Q. Of what?
A. A copy of a check.
Q. Okay. What is that check? Is that your check?
A. That's Laugh Factory check.
Q. Made out to whom?
A. To David Arvizo.
Q. For how much? 4029

A. For $800.
Q. What do you believe that was for? Do you have a recollection of it?
A. Yes, I do.
Q. What was that?
A. I think it's, again, another time he came, ask me for money that I didn't have cash with me, so I had to write him a check for his rent.
Q. And that was what that check was for?
A. That's what he said for.
Q. Do you have a sense of how much money you gave David Arvizo during the time that Gavin was ill?
A. Not really.
Q. On one of the two occasions that you were having a benefit at The Laugh Factory --
A. Yes, sir.
Q. -- did you have an argument with David, or did he have an argument with you?
A. Not really. I don't recall argument.
Q. Did he ever throw money on the floor?
A. Oh. One time -- the second, I think, if I'm not mistaken, it was the second time that the money I gave -- we did a fund-raising for David. And we went upstairs, and somehow he was downstairs collecting the money.
And we went upstairs, giving the money to David Arvizo. And David all of a sudden -- we gave 4030

him the money. And I ask him about -- again, one more time about -- because Gavin was up there. Somebody was there. I can't recall who was there. Somebody was -- few people that were up there, they ask me about the wallet. Somehow the wallet came up. And David was trying to tell Gavin to talk about the wallet. And Gavin did not want to say anything about it. He said he didn't know what wallet he's talking about.

And because of he wasn't -- kid was not confirming what he was saying, and he throw the money at me. And I'm kind of like -- you know, I was kind of like insulted; I say how unappreciated person he is, so I start walking away.

Q. You walked away?

A. Yes, sir.

Q. All right. What happened to the money?

A. I have no idea. Maybe somebody picked it up. I have no idea.

Q. You left it behind, though?

A. Yes.

Q. You didn't pick it up?

A. No, I was upset at that time.

Q. Was this the money that was the door money to one of those benefits?

A. Yes, sir.

Q. All right. What was it that you said to Mr. Arvizo prior to him doing that? 4031

A. I think was something to do -- I mean, again, it's -- God, it's five years, four years ago. I can't remember word by word. But it was something to do with wallet.
Q. Whose wallet?
A. The wallet of Gavin, because I believe I spoke to Ann Lopez. Ann Lopez said they find the wallet and was only $50 in it or something. And I'm trying to ask him, "Wasn't that what you told me you got a check for, 350 from me? What's going on in here? Can you explain something here? Something is not kosher in here. Hello?" And he's kind of like -- he said -- he ask Gavin, "Gavin, confirm what's happened," and Gavin would not say anything.
Q. That's the conversation we just had already?
A. Yeah.
Q. Did you have any other dealings with David Arvizo thereafter?
A. Yeah, he would come by the club once in a while. He would come in, you know. I mean, at that point after that, you know, it was kind of like, you know, you try to help people, and the time people become a little bit, you know, not truthful, you just kind of like -- you know, you're not as friendly as you're supposed to be. So I wasn't that much friendly with him. I mean, we were still -- we still talk anytime he 4032

calls me. I pick up his phone, I talk to him.
Q. At some point in time, did you become aware of the fact that the Arvizo -- or any members of the Arvizo family were visiting Neverland, Michael Jackson's ranch?
A. Yes, I did.
Q. Were you involved in some way in introducing Gavin to Michael Jackson, to your knowledge?
A. To my knowledge, I don't know if it was me doing or so many -- I was in the hospital. The kid was -- you know, he needed help. And his wish was -- looking at a T.V. on the -- in the hospital, he saw Michael Jackson on the T.V., and he said he wanted to meet Michael Jackson. I didn't know Michael Jackson. I never met Michael Jackson. And I want to bring his wish through like Make a Wish. So I say, "Okay, if you eat, I do anything you want. You want to meet Adam Sandler, all those guys you told me, I'll introduce him to."
I didn't know Michael Jackson, but at that point I made several phone calls to different places. I called Paul Mooney, David Salzman. I called Quincy Jones' office. I called anybody I could to get some kind of number. Somebody say call some -- some -- some studio in Vine Street, called The Studio on Vine Street. I was doing that in the hospital, call The Studio on Vine Street. I tried to call -- they gave me number, they said it's 4033

Neverland. I don't know if it was Neverland.
So I left a message for everybody I could,
"Hey, if anybody get this message, please tell
Michael to watch this ABC show and this thing, and
if he can watch it, please call him tomorrow.
There's this kid dying."
And I left a message. I don't know if my
message got to him or he called next day by chance,
by will of God. I have no idea.
Q. But in any event, you became aware that
Gavin had started having conversations with Mr.
Jackson?
A. Yes.
Q. Did Gavin ever talk about that when you
visited him at the hospital?
A. Yes. The next day when he was so impressed
and so grateful and so happy to hear from Michael.
Michael call him. And he said, "Do you have
anything?" I said, "I don't know." I made a few
phone call. I don't know if anything came from me.
Maybe somebody else call him. I have no idea.
But at that point, he was very happy, and he
was very excited about it. And you could see his
face, he was cheered up a little bit.
And what else?
Q. Are you aware of whether or not he ever
visited Michael Jackson at Neverland Ranch?
A. Yes. Father told me Michael invite them to 4034

go to Neverland. And they were going to go to Neverland. So I said, “Oh, great. Wonderful. Have a good time.”
And father said, “Do you want to go?” And I said, “I got three other kids dying. I got to go take care. I wish I could go. I can’t go to Neverland. I wish I could. But go ahead. You guys enjoy.”
Q. At some point in time, did you view or watch the television documentary entitled “Living with Michael Jackson”? Did you ever see that?
A. Yes, I did. The second time they showed it.
Q. In the United States?
A. In United States, yeah.
Q. Were you aware that Gavin was going to be featured in that documentary prior to your viewing it?
A. I was aware of it because Janet called me about that.
Q. All right. When Janet called you, do you remember when that was?
A. No idea. The date -- I’m very bad with date. I’m telling you now, don’t go to the date.
Q. Was Gavin -- was Gavin already well at that point?
A. Gavin was not well, but he was -- you know, I mean, still have a problem with the kidney, because, you remember now, he had one kidney, and he 4035

have no spleen, and he got to take medication for his spleen, because he goes through any room that have a germ, he could get sick immediately. And he had one kidney. And at the time he have one kidney, you know, he got to go for his blood being, you know, changed or dialysis, or whatever it is. Once in a while he got to do that, all kinds of stuff like that. So he's not still well.

Q. When Janet called you, was she upset?

A. She said -- yes, she was upset.

MR. MESEREAU: Objection; hearsay.

MR. ZONEN: I was just asking whether --

THE COURT: The objection is overruled. And the answer was, "Yes." Next question.

MR. ZONEN: All right.

Q. You then viewed the documentary "Living with Michael Jackson"; is that right?

A. Yes, I did.

Q. And you watched Gavin in that film?

A. Yes, I did.

Q. Were you aware of whether or not that film itself caused Gavin some problems?

MR. MESEREAU: Objection. Hearsay; foundation.

MR. ZONEN: The question is whether he knew.

THE COURT: I'll allow the question, but you can only answer it "yes" or "no." And I'll have it read back to you. 4036

THE WITNESS: Okay. Please.
(Record read.)
THE WITNESS: Yes, it did.
Q. BY MR. ZONEN: What were the nature of those problems, to your understanding?
MR. MESEREAU: Objection; foundation.
THE COURT: Sustained.
Q. BY MR. ZONEN: Were you told by anybody the nature of those problems?
MR. MESEREAU: Objection; foundation.
MR. ZONEN: State of mind. Not for the truth of the matter.
THE COURT: The objection is sustained.
MR. ZONEN: All right.
Q. Did you do a presentation of any kind or were you filmed in any way on behalf of Michael Jackson?
A. Yes, I did.
Q. All right. Tell us about that. When did that happen?
MR. MESEREAU: Objection; foundation.
THE COURT: Overruled.
Q. BY MR. ZONEN: When did that happen? Go ahead.
A. It was -- I don't know, again, the day. It was sometime that -- after Martin Bashir show, that film. And the people, they called -- Janet called and said they needed to do -- 4037

MR. MESEREAU: Objection; hearsay.
Q. BY MR. ZONEN: Just tell us what you did.
A. What I did. They came in my club and they ask me if I can talk on the T.V. And they talked to me if I can talk about Martin Bashir. I start talking about Martin Bashir, that Martin Bashir -- what I thought, that he did something wrong, because showing a kid, underage kid, on his T.V -- on a T.V. for -- he make millions of dollar, and he put this poor kid on a tape, and he didn't even digitize his face, and people in the school, they call him "faggot" by it. And I -- I felt terrible for him. I really felt horrible about it.
Q. Who was it who asked to you do something on tape on behalf of Michael Jackson? Do you know who the person was?
A. I think, if I'm not mistaken -- I'm not hundred percent sure, maybe I shouldn't answer it, but I think it started with Janet.
MR. MESEREAU: Objection; calls for speculation.
THE WITNESS: Oh, don't answer it?
THE COURT: Don't answer.
THE WITNESS: I don't recall.
Q. BY MR. ZONEN: Did that person --
(Laughter.)
MR. ZONEN: Well, that was a more concise answer. 4038

THE WITNESS: Well, that was bad?
Q. BY MR. ZONEN: No, no, no.
How many people showed up?
A. They showed up about, oh, God, three, four
people, five people.
Q. Cameramen included?
A. Cameramen.
Q. Where did they do the filming?
A. In Laugh Factory in Los Angeles.
Q. All right. Were any of them introduced to
you?
A. I'm sure they were.
Q. Do you remember any of their names?
A. None.
Q. How long was the filming?
A. The filming, they said they going to do
about two, three minutes, just talk about Martin
Bashir. But afterwards, they -- I understood that
my mike was on, and they kept on talking to me about
Michael. They talked to me about different stuff.
I don't know if they tape all of that. I'm not
sure. But they said, "I want to pick up the spot I
talk about Martin Bashir, what he did was wrong."
Q. All right. Did you ever see the production
that was done that featured you, among other people?
A. No, I did not.
Q. Do you know if it was ever shown on
television? 4039

A. I think it was, because people told me it was on T.V.
Q. To this day, have you ever seen it?
A. No, I got a tape of it, but I never got a chance. I wish I had time to go see it. I have a tape of it. And I know -- I'm -- I don't look at myself too much.
Q. But you've never looked -- you've never viewed it in its entirety?
A. No.
Q. And you've never viewed the portion that you recited?
A. No.
Q. And you don't know if it contains the part that was filmed after you thought you were done, or during the part?
A. I have no idea, but the people, they told me what they said. I says, "Well, that's the press. Let it go." I didn't even --
Q. Did somebody tell you what to say?
A. The people that were there, they were encourage me to talk about Michael. If Michael helped the kid, what my thought was. Who else helped the kid, if Adam Sandler helped the kid, if anybody helped the kid. And I was very open. I was talking about it.
Q. What did you understand to be Mr. Jackson's assistance to this child at the time that you did 4040

this video?
A. I thought Michael, Adam Sandler, everybody really -- they helped the kid. That's my belief. Everybody, they did help the kid. At that point I believed that.
Q. Did you have any personal information at that time on what Mr. Jackson did on behalf of Gavin Arvizo at the time you did this video?
A. What -- I'm sorry.
Q. Did you have -- when you made statements on behalf of --
A. Yeah.
Q. -- Michael Jackson and other people --
A. Yeah.
Q. -- did you have a sense of what it was that Michael Jackson did on behalf of Gavin Arvizo?
A. I'm not still clear. I'm sorry.
Q. Were you encouraged to say good things about Michael Jackson?
A. Yeah. The people ask me, "Hey," you know, "Can you say that?" And I say, "Yeah." I believed it. I said it, yeah.
Q. Did you believe the reason for your presence on that video was to say something about Martin Bashir?
A. Yes, that's what I believed.
Q. At some point in time did you get a phone call from Janet Arvizo calling from Neverland? 4041

A. Yes, I did.
Q. Did she sound upset to you?
A. Uh --
MR. MESEREAU: Objection; hearsay.
THE COURT: Overruled.
Q. BY MR. ZONEN: Did she sound upset to you?
MR. MESEREAU: And leading.
THE COURT: Overruled.
You may answer “yes” or “no.”
THE WITNESS: Yes.
Q. BY MR. ZONEN: All right. What did she tell you?
MR. MESEREAU: Objection; hearsay.
MR. ZONEN: State of mind and spontaneous declaration and excitable utterance, the last being the exception to the hearsay.
MR. MESEREAU: No foundation for that justification.
THE WITNESS: What do I do?
THE COURT: That’s true for the spontaneous declaration and the excitable utterance. There is no foundation. The state of mind, I think that would depend on a further foundation also, so I’ll sustain the foundation objection.
MR. ZONEN: All right.
Q. You said she was upset. Describe that to me. You’ve had other conversations with her prior to that. 4042

A. I had many conversations with her. She was kind of like in a state of, you know, like crying, "Oh, my God." You know, her voice, you could see like -- "Oh, my God, they hold" -- "They are holding me here."

MR. MESEREAU: Objection. Objection. Hearsay; move to strike.

THE COURT: The -- I'll strike that. The foundation I was looking for was time frame foundation, because her state of mind is only relevant at a certain time, so I think you missed --

Q. BY MR. ZONEN: Can you tell us approximately when that call was taking place? If you can't tell us a date, then in comparison to other events.

A. It was -- in my recollection, it was sometime later after Martin Bashir type of stuff.

Q. Can you tell us approximately how long after Martin Bashir?

A. I have no idea.

Q. I mean, would it be measured in weeks or measured in months?

A. Few weeks maybe.

Q. All right. All right. And then you described her as crying; is that correct?

A. Yes.

Q. All right. And you've heard her crying before?

A. Yes. 4043

Q. At the time she had that conversation with you about her child being ill?
A. The time he was ill, a couple of different times I heard her crying. It was in the hospital I saw her crying, and her voice.
Q. And describe her emotional state as you talked to her on that telephone call after the Martin Bashir screening. Describe her emotional state in comparison to those other occasions.
A. She was upset. She was crying, the same way was before. Her voice was the same as like her child was sick.
Q. And what did she tell you?
MR. MESEREAU: Objection; hearsay.
THE COURT: I'm going to admit this for the state of mind only.
MR. ZONEN: Thank you.
Q. What did she tell you?
THE COURT: That means that it's not -- I'm going to let you answer in a minute.
THE WITNESS: Okay.
THE COURT: (To the jury) That means that I've limited the use of this testimony not for the truth of the matter asserted, not for the truth of the matter of what she says, but to show her frame of mind.
All right. You may answer the question. Do you want it reread? 4044

THE WITNESS: Please.
THE COURT: Okay.
(Record read.)
THE WITNESS: I mean, depends what conversation. I mean, now I have several conversations.
Q. BY MR. ZONEN: This first one.
A. Oh, God, I don't know which one was first.
Q. As best you can recall.
A. Which one was first, which one was second. Four, five years ago. I have no idea. But I could say what conversation I had. I don't know which one was what.
Q. The one that you most remember where she was crying. That one.
A. She was -- that one was from Neverland. She said, "They are holding me here with my kid against my will. I need to get out of here. Please do something."
I said, "Why don't you call the police?" We talked about all kind of stuff like that.
You want to --
THE COURT: Hold it. Hold it. Next question.
Q. BY MR. ZONEN: All right. Did you make an effort to introduce her to a lawyer?
A. Yes, I did.
Q. And who was the lawyer that you introduced 4045

her to?
A. Bill Dickerman.
Q. All right. Do you remember what that was?
A. It was after the Martin Bashir taping was going on. The people, they were calling Gavin all kind of bad names. And I took her to -- and the kid to -- to Bill Dickerman to stop, if they can stop. ABC was running it. VH-1 was showing his picture, MTV. All of them. The way I understood, everybody was showing his picture. And the people, they recognize him, and they would call him bad names. And he was really upset. And we were going to try to see if -- if Bill Dickerman could write a letter to those people, tell them stop using the tape of -- showing his face.
Q. All right. Were you the one, then, who took her to Bill Dickerman?
A. Yes, I did.
Q. And was the purpose for that to get her child off television?
A. Yes.
Q. Was there any other reason that you took her to Bill Dickerman?
A. No, that was the reason we took her, because didn't want to be -- her child be called "fag," or whatever was calling.
Q. Were you present during any of those conversations? 4046

A. I --
Q. By “those conversations,” I mean between
Janet Arvizo and Bill Dickerman, Attorney Dickerman.
A. Yes, I was, on four occasion. I remember
four occasion I remember I was present.
Q. Okay. And did you participate in the
conversations?
A. First one, participate.
Q. I’m not asking you the content. I’m just
asking if you were actually contributing in some
fashion to these conversations.
A. Yes.
Q. All right. What -- where did the
conversations take place? Were they at multiple
locations?
A. Yes, sir.
Q. What were the multiple locations?
A. One time was in my office. No, no, it was
in the Bill Dickerman -- I took them Bill Dickerman
office. And it was in Bill Dickerman office. They
talk to the -- to Bill Dickerman.
And second time it was in my club. And I
believe third time it was in my club.
Fourth time it was -- I was present with
Bill Dickerman. We took them to -- we took -- we
took the kids and the mother, they were going with
Jay, they were going to play baseball, and we took
them to baseball, and I was going watch the kids to 4047

play baseball. So those four times I was present.
Q. All right. There was one meeting at The
Laugh Factory; is that right?
A. Two meetings at Laugh Factory, sir.
Q. Do you know if Janet was accompanied by
anybody from Neverland?
A. I understood that's what she told me. I was
inside the club. She said we -- came in, and she --
MR. MESEREAU: Objection; hearsay.
THE COURT: Sustained.
Q. BY MR. ZONEN: All right. Did you ever
offer money to Janet Arvizo?
A. Did I ever offer money to Janet Arvizo?
Q. Uh-huh.
A. Yes.
Q. Okay. Did you ever tell her that there was
somebody prepared to give her a substantial amount
of money?
A. Yes, I know where you're going now. Yes.
Q. You're troubled by something, are you not?
A. Yes. Yeah.
Q. The person --
MR. MESEREAU: Objection. Leading; move to
strike the comments.
THE COURT: Sustained; stricken.
MR. ZONEN: All right.
Q. The person -- there is a person who was --
let me back off a little bit. 4048

The conversation that you had with Janet Arvizo about somebody having money for her --
A. Yeah.
Q. All right. Tell us what you told Janet Arvizo.
A. It was after Martin Bashir and all of that stuff happened. And I told Janet, I said, “Janet, particular person wants to give you -- actually, offered to give me a check, as much as amount of money you want, and wants you to just take care of your kid and family, and feels bad for all of that stuff. And if you need money, whatever money you need, I know this particular person he would give you whatever money you need,” you know. “You need to buy a house, whatever you need, he would get you the money. Whatever money you need, he would give it to you.”
Q. What did she say?
MR. MESEREAU: Objection; hearsay.
MR. ZONEN: State of mind. Particularly given counsel’s opening statement.
THE COURT: All right. The objection is sustained.
MR. ZONEN: Could we approach sidebar?
THE COURT: All right.
(Off-the-record discussion held at counsel table.)
THE COURT: All right. Would -- excuse me. 4049

(To the jury) What I'm going to do is, again, I'm going to change the ruling that I made a moment ago, and I'm going to allow the answer to this question.
But again, I'm going to give you the cautionary instruction that this answer that is about to be given to this question is -- is offered for a limited purpose, which is Mrs. Arvizo's state of mind only. So that would be Janet's state of mind only, not for the truth of the matter asserted.
And I'll have the question reread to the witness, and then he may answer.
(Record read.)
Q. BY MR. ZONEN: With regards to your conveying that comment about a person prepared to give her money, what did she say?
A. She said, "No, tell them all I need friend. I don't need money. I just need pray. And I don't need money. Thank you very much, but tell them we need a friend. That's all we need."
And I say, "You sure you don't want money? If you need any money, you know, let me know."
MR. MESEREAU: Objection; nonresponsive.
THE COURT: I'll strike the last sentence.
Q. BY MR. ZONEN: When did this conversation take place? I know your difficulties with dates, but in comparison to some other time.
A. After Martin Bashir. 4050

Q. Do you know if Janet Arvizo was still with David Arvizo at the time of that conversation?
A. No. Martin Bashir happened, David -- they were separated. No, they were not together.
Q. Did you ever see Janet Arvizo with bruises on her?
A. Yes, I did.
Q. Do you know where those bruises were on her body?
A. One time I saw bruises upper -- like nearby by her neck, near upper chest, like somebody tried to -- what they call -- I don't know what was it. Looked like somebody tried to choke her or something. And there was make-up on it, and the make-up was coming off. And I said, "What's this?" She'd hide it. She didn't want to let me know --
MR. MESEREAU: Objection; nonresponsive.
THE COURT: I'll strike after he -- "And there was make-up on it," from there on, I'll strike.
Q. BY MR. ZONEN: Did you see bruises on any other occasion on her?
A. Yes, I did.
Q. How many occasions do you think?
A. Another time I saw bruises was -- it was on -- one side of her face was swollen and her eyes were swollen. It was like black and blue. Again, make-up was on it. 4051

MR. ZONEN: Thank you. I have no further questions.

CROSS-EXAMINATION

BY MR. MESEREAU:

Q. Good morning.

A. Good morning, sir.

Q. Mr. Masada, we haven't met. My name is Tom Mesereau. I speak for Michael Jackson.

A. All right, sir.

Q. Mr. Masada, do you remember receiving a phone call from an investigator for the Santa Barbara District Attorney's Office in December of 2003? He said his name was Tim Rooney. Do you remember that?

A. I don't recall it, but if he said he did, I did.

Q. Do you remember talking to someone in December, around December 9th, 2003, from the Santa Barbara District Attorney's Office?

A. No, I don't recall.

Q. Do you remember telling this person that Gavin's parents came to you and wanted financial help? He repeated, "Who asked you that?" You said, "The parents"?

A. I meant "husband." I never said "mother."

Q. Would it refresh your recollection to show you a police transcript of your -- 4052

A. I don’t need to see the police --
Q. You didn’t know the phone call was being recorded?
MR. ZONEN: May the witness be allowed to answer the question in its entirety before counsel steps in with his next question?
THE COURT: Yes.
Q. BY MR. MESEREAU: You didn’t know your phone call --
MR. ZONEN: He hasn’t answered the question.
THE COURT: He started to answer it. He’s allowed to finish it.
THE WITNESS: What was the question again?
MR. MESEREAU: I’m not sure even I know at this point.
THE COURT: The question was whether it would refresh your recollection to show you a police transcript, and you said, “I don’t need to see it,” and you were interrupted.
THE WITNESS: Yeah, because it is “parents.” I meant “father.”
Q. BY MR. MESEREAU: Okay. Well, you didn’t know your phone call was being recorded, correct?
A. I don’t know any of my phone call was record.
Q. No one has ever told you that that phone conversation was recorded by the District Attorney’s Office of Santa Barbara, correct? 4053

A. I don't know if they did. I'm not -- they never told me anything.
Q. You did tell them that the parents wanted financial help. You were then asked, "Who asked you that?" And you replied, "The parents," right?
A. Yeah. "The parents" means "father." Let me correct it.
Q. Oh, I see.
How many meetings have you had with anyone related to the prosecution before you testified in this case?
A. How many meeting with what?
Q. With anyone related to the prosecution before you testified in this case.
A. I had a meeting this morning. They came in, they say, "You sit in the room."
And meaning the people that came investigating my office? What are you talking about, sir? Explain it to me.
Q. Please identify every meeting you had with anyone related to the prosecution before you testified today.
MR. ZONEN: I'll object as vague and compound.
THE WITNESS: Oh, God.
THE COURT: Overruled.
Q. BY MR. MESEREAU: A lot of them, right?
A. Yes. A lot of them, yes, I do. 4054

Q. How many do you think?
A. I have no idea. They came in my office, say they want to talk. They came, I don't know, two, three, four, five times. I didn't write them down. They call me.
Q. And have you ever discussed what you were going to say in court today with anyone associated with the prosecution?
A. Only thing I have spoken to, I spoke to Mr. -- I spoke to you (indicating) one time. And there was a -- I believe -- no, just one time I've spoken to.
Q. Do you remember ever telling a Santa Barbara sheriff's investigator that Janet wanted a watch, so you bought her a watch?
A. Janet want a watch?
Q. Yes.
A. Um, not as far as I remember.
Q. Would it refresh your recollection if I just show you a transcript?
A. No, because I didn't buy a watch for Janet. I don't know what you're talking about.
Q. You never told them she wanted a watch and you bought a watch, correct?
A. Maybe it was something for Davellin. I got a watch for Davellin.
Q. Okay.
A. For the girl. The daughter. 4055

Q. When did you give the watch to Davellin?
A. Huh?
Q. When did you get a watch for Davellin?
A. Davellin, she came in -- we do, at The Laugh Factory, every Christmas and Thanksgiving, we do feed homeless. And Davellin came out there to help me to do -- to help the serving the homeless. And we were giving the gifts for the kids, homeless kid, and Davellin, at that point I remember she said something about she need -- that watch was nice, was giving to the kids, and I said, “I get you one.” That’s what happened.
Q. Now, you knew that Louise Palanker had given $20,000 to the Arvizos, correct?
A. Yes, I did.
Q. And you knew that she had written a $10,000 check to Janet, correct?
A. I didn’t know it. What do you mean, “correct”? No, I did not know she wrote it to Janet. How would I know?
Q. Well, did you ever discuss with her where she was getting that money?
MR. ZONEN: Who is “her”? Objection; vague.
MR. MESEREAU: That’s okay. I’ll withdraw it and rephrase.
Q. Did you ever discuss with Louise Palanker who she was writing her checks to?
MR. ZONEN: Objection; hearsay. 4056

THE COURT: You may answer “yes” or “no.”
THE WITNESS: No, I didn’t ask her who write check to, because I’m not -- I have nothing to do with her checkbook.
THE COURT: I just said “yes” or “no.” I’ll strike the balance.
THE WITNESS: Oh, sorry.
Q. BY MR. MESEREAU: Okay. Did you know whether or not Louise Palanker wrote a $10,000 to Janet?
A. Yes, I do. For --
MR. ZONEN: Objection. Lack of foundation; and hearsay.
THE COURT: I’ll allow you to answer this question either with a “yes” or a “no.” It’s --
THE WITNESS: Yes. Yes.
Q. BY MR. MESEREAU: Do you recall ever telling anyone --
THE COURT: I’m sorry, I misdirected. You need -- I’m going to strike the question and the answer. That couldn’t be answered “yes” or “no.” Go back and rephrase. You asked him whether or not, so it can’t be “yes” or “no.”
Q. BY MR. MESEREAU: Were you ever aware that Louise Palanker wrote a $10,000 check to Janet Arvizo?
A. Yes.
Q. When did you learn about that? 4057

A. Oh, Gavin was going to go home, and they want him to have a kind of room that was sanitized, and that's what hospital said. And I was looking for finding an apartment for them, to find an apartment.
And then next thing I know, I heard from David that Louise wrote the check. They going to take the money in the grandmother's house and make one of the rooms become sanitized for the kid. I don't need to look for apartment anymore.
Q. Do you remember ever telling any police investigator that, after talking to Janet on the phone, you wrote checks to pay for judo and karate school for the kids?
A. No, it was Jay and Janet. Yes, Jay and Janet.
Q. Jay and Janet asked you to pay for judo and karate school, correct?
A. No, they didn't ask me to do it. I volunteer to do it, sir.
Q. After they told you they couldn't pay for it, correct?
A. No, they were telling -- no, don't put words in my mouth. Let me say -- if you want to know the truth, let me tell you the truth, what happened.
Q. I would like to know the truth for sure.
A. That's what I'm going to tell you. That's what I'm going to tell you. If you want me to say 4058

it, I say it.
They were suggesting that they were going to take the kid, because the kid was bothering -- all of the kids, they were bothering him. And they want to take him to put him on other school. They said they -- Jay said, “We don’t have enough money.” And I said, “How much you guys short?” They said, “$400.” I said, “I could help that.” I said, “I will have no problem to write the check for $400.”
That’s what I did.
And the other occasion about judo you ask.
Judo -- I went to their house. I went up there, and the kids were talking about they wanted protection.
I suggested -- I said, “Can I go” -- “You guys should go to judo or something.”
And Jay and Janet was up there. They said, “Oh, thank you very much. God bless you. You’re helping us out.”
MR. MESEREAU: Okay
THE COURT: Okay. We’re going to take a break.
Let me tell the jury what we’re going to do.
I’m going to give a little longer break to you because we need to address a couple of issues outside of your presence, so we’re going to take our regular break for 15 minutes. And then we’ll come back, and it will be about another 10 or 15 minutes longer than our normal break at this time, just so 4059

you know. So you probably won't be back in until 12:00.
THE JURY: (In unison) Okay.
THE WITNESS: Am I excused?
THE COURT: I want to see everybody here at the end of the regular break.
MR. ZONEN: Quarter to?
THE COURT: Yeah.
(Recess taken.)

(The following proceedings were held in open court outside the presence and hearing of the jury:)

THE COURT: Yes, I just want to take up a couple of the issues.
I was told earlier that Dr. Katz was going to be the next witness, so I thought I better clean this up before we start with him. I've been told now that that may not be the case, but we've set the time aside, so let's just do this.
The first issue that's before me on Dr. Katz's testimony was a motion by Mr. Mesereau that Mr. Oxman actually wrote, which seeks to limit the psychologist from being able to testify to the ultimate fact, the credibility of the children, pointing out that that was done in the grand jury hearing. 4060

And my ruling on that is that, in accord with the request, he is not to give his opinion as to their credibility.
I think that covers that, doesn't it, Mr. Oxman?
MR. OXMAN: Yes, sir. And I think it also reflects --
THE BAILIFF: You have to speak up.
MR. OXMAN: It also -- it also reflects to ultimate facts, Your Honor, as to whether or not it occurred.
THE COURT: Turn on your mike.
MR. OXMAN: Also reflects the ultimate facts as to whether or not the incident occurred.
THE COURT: Yes. So he's not allowed to give his opinion as to credibility or his opinion as to whether the actual things happened.
MR. ZONEN: Your Honor, we have no intention of asking either of those questions about his view of the credibility --
THE COURT: I don't think your mike's on. Is it?
Can you hear back there?
MR. ZONEN: All right. We have no intention on asking either of those questions, nor will we.
THE COURT: All right. The next issue is the -- Mr. Mesereau has submitted a limited waiver. I saw a copy of the limited waiver of 4061

confidentiality signed by Bradley Miller. Have you seen that?
MR. ZONEN: Yes, I have it in front of me.
THE COURT: And do you wish to speak to that?
MR. ZONEN: Yes.
THE COURT: All right.
MR. ZONEN: I don't believe you can have a limited waiver of a nature like this to be able to ask a therapist two questions about a person who is presumably his patient. And, of course, Dr. Katz has never acknowledged that this person --
THE COURT: I never let him. It cost Mr. Oxman a thousand dollars, as I recall.
(Laughter.)
MR. ZONEN: Now, let's assume --
THE COURT: You don't have to say anything.
MR. ZONEN: Not without a lawyer at his side.
THE COURT: But so your issue is the -- he now has a waiver, Mr. Mesereau, Mr. Oxman, they have a waiver as to the very issue that I was saying they couldn't address, which is whether or not he was a patient.
MR. ZONEN: Well, actually, it doesn't do that. It specifically is a waiver to a conversation involving two questions. I don't know that Dr. Katz would be comfortable even acknowledging that he's a patient, given the limited nature of this waiver. I 4062

don’t believe that -- that’s one objection I have to it.
But the principal objection I have to it is that unless there is a more extensive waiver that would cover any related conversations -- let’s assume that this conversation did take place. And I think you’re going to find out it didn’t, but let’s assume that something similar took place to it.
Would I be entitled to ask Dr. Katz questions about the nature of that communication and other communications relevant to it? And let me give you an example.
Let’s assume Dr. Katz was treating Brad Miller, assuming he was his patient, for some malady that involved honesty. Let’s assume that he was treating him for some malady that involved his workplace relationship with his employer, Mark Geragos, in which case this could be in the context of much greater conversations, conversations between Dr. Katz and Brad Miller, and even conversations between Brad Miller and Mark Geragos over a much greater period of time. How does Dr. Katz necessarily defend himself from these two statements without talking about the other conversations that may be directly related to this issue?
I also know of no authority for a partial waiver, and they haven’t cited any.
THE COURT: You can look at Brett vs. 4063

1 Superior Court, 1978 case, 20 Cal.3d 844.
2 I guess the problem I'm having -- I think
3 I've got past the partial waiver problem.
4 MR. ZONEN: May I add one more thing to it?
5 And that is relevance.
6 THE COURT: That's where I'm having the
7 problem is the relevance.
8 What is the possible relevance, Mr.
9 Mesereau?
10 MR. MESEREAU: I'll be examining Dr. Katz,
11 Your Honor.
12 There's definite relevance, because Dr. Katz
13 has been -- has had a financial motivation to be a
14 celebrity psychologist. In fact, he finally got a
15 T.V. show recently. It's a reality show on one of
16 the networks. Dr. Katz wants to be in a celebrity
17 case. Dr. Katz found a way to be in a celebrity
18 case, this one.
19 And according to his former patient, who has
20 waived the privilege, this man kept telling him, "I
21 want to meet celebrities. I want to be in a
22 celebrity case." That would suggest a motivation to
23 want to see this thing go forward.
24 THE COURT: Let me see your copy of the --
25 MR. MESEREAU: The waiver?
26 THE COURT: What I'm going to do at this
27 point is to agree that there is a possibility of a
28 limited waiver and I'll accept the limited waiver. 4064

I'm still not convinced of the relevancy based on what you represent -- well, excuse me, what Bradley Miller represents is that Dr. Katz said he wanted to be a celebrity therapist. I'm not sure that the -- I have to think about the inference you want to have made from that.

MR. MESEREAU: It would suggest financial motivation, Your Honor. And the scope of cross-examination for financial motive is very broad. You're talking about a Beverly Hills psychologist who has desperately wanted to be involved with celebrities for a long time. And he was very clear with his patient, Brad Miller, that he wanted to meet celebrities and get involved in celebrity cases. That's what it really comes down to.

THE COURT: All right. I'll give a little more thought on that.

MR. ZONEN: Is there an offer of proof that Bradley Miller will be testifying as a witness for the defense?

MR. MESEREAU: Yes, there is. He will be testifying for the defense.

THE COURT: In the -- the limited waiver, as I see it, as far as the District Attorney's concerned, you were giving some hypotheticals, and before you could address that type of thing, before you could go beyond the cross-examination limited to 4065

that conversation, you'd have to have my permission. You'd have to be able to make the same sort of -- have a witness make a declaration, and I'm going to -- if I allow it in, it will be narrowly construed as to any conversations. This is a really important privilege that's being protected here. So, I'm not saying you can't do it, but you were just giving me hypotheticals; what if this, and what if that, and that's not where we are.

MR. ZONEN: I, of course, don't know, because --

THE COURT: I'm just saying, to go beyond -- there's cross-examination here that you can clearly make about this, you know, what was really said, and get the whole conversation out on that issue. Obviously you're not limited to the two statements that are represented here. But to go into why he's in treatment or any of that, you can't touch that.

MR. ZONEN: I understand that, but here's my concern. If it's true that Bradley Miller is Dr. Katz's patient, and assuming for this argument that he is, if it's true that Mark Geragos is Bradley Miller's employer, and Dr. Katz is a psychologist treating Bradley Miller, I would assume that among their discussions, perhaps multiple discussions, is his workplace relationship with his employer.

THE COURT: Well, you would assume that, but we don't know that. That's why I'm saying, whatever 4066

else you want to go into, you're going to have to provide me with some sort of statement signed, as -- as they did with Bradley Miller. Although, this is not a statement under penalty of perjury, but it gives me the information that I need to know whether I'm going to let you go into it. That's all I'm telling you. Okay?

MR. ZONEN: Okay.

THE COURT: All right. At the -- I think what you'll have to do is to file the waiver when -- the original waiver when you're ready. I'll give it back. I've got a copy of it. I just didn't have an original.

MR. MESEREAU: I only have an e-mailed waiver. That's all I have at the present.

MS. YU: It's been faxed.

MR. MESEREAU: A faxed waiver.

MS. YU: We'll get the original.

MR. MESEREAU: We will get the original, Your Honor.

THE COURT: All right. I think we're ready, then, to go forward with the testimony. Do you want to bring in the jury, please?

(The following proceedings were held in open court in the presence and hearing of the jury:)

1
2 THE COURT: All right. You may proceed.
3 MR. MESEREAU: Thank you, Your Honor.
4 Q. Mr. Masada, when Jay Jackson and Janet
5 Arvizo called you and --
6 MR. ZONEN: Objection; vague.
7 MR. MESEREAU: He's only testified to one
8 call, Your Honor. Your Honor --
9 MR. ZONEN: And two people placing it?
10 MR. MESEREAU: -- I'll rephrase it.
11 Q. Mr. Masada, approximately when did Jay
12 Jackson and Janet Arvizo call you and discuss the
13 issue of the judo club or karate club, if you know?
14 A. I don't recall.
15 Q. Okay. Obviously it was your impression that
16 Janet Arvizo was involved with Mr. Jay Jackson at
17 that point, right?
18 A. Yes, sir.
19 Q. Did you know that Jay Jackson was making
20 $8,000 a month?
21 A. No, I didn't.
22 MR. ZONEN: Objection. Assumes facts not in
23 evidence; hearsay.
24 THE COURT: Sustained.
25 Q. BY MR. MESEREAU: Did you know whether or
26 not Janet was collecting welfare at that point and
27 giving it to Jay?
28 MR. ZONEN: Objection. Assuming facts not 4068

1 in evidence, and hearsay.
2 THE COURT: Sustained.
3 Q. BY MR. MESEREAU: Did Janet ever discuss the
4 J.C. Penney lawsuit with you?
5 MR. ZONEN: Objection, irrelevant and
6 hearsay.
7 THE COURT: Overruled.
8 You may answer.
9 THE WITNESS: Yes.
10 Q. BY MR. MESEREAU: And when did you have a
11 conversation with Janet about the J.C. Penney
12 lawsuit?
13 A. After I heard it on the news.
14 Q. And when did you hear about it on the news?
15 A. I don't recall.
16 Q. Was it recently?
17 A. No, it was a couple, few months ago. I
18 don't know how many months ago it was. It was in
19 the news.
20 Q. So you're in touch with Janet these days,
21 right?
22 A. Yes, sometimes I am.
23 Q. When did you last talk to her?
24 A. Before Christmas.
25 Q. Okay. Now, you indicated that you had a lot
26 of meetings with either the prosecution or somebody
27 connected with the prosecution, correct?
28 A. The detective -- the detective, they came to 4069

my office many times, yeah.
Q. Okay. When was the last time you had an in-person discussion with anybody associated with the prosecution?
A. This morning.
Q. Okay. And where was that?
A. It was in the room where the witnesses sit.
Q. Okay. And did you have a discussion with anybody in that room this morning?
A. The discussion, Mr. Ron Zonen, he said, "It's going to be easy. Just relax. I'm going to go to a room and we're going to call you in a few minutes. I have a witness on this side. I'm going to talk to them, and they're going to bring you in."
Q. Now, when you had a discussion with Janet Arvizo about the J.C. Penney case --
A. Yes.
Q. -- without telling me what she said, did you learn approximately when that case was resolved?
MR. ZONEN: Objection. Irrelevant; hearsay; lack of foundation.
THE COURT: Sustained.
Q. BY MR. MESEREAU: Do you know whether or not the J.C. Penney case was ever resolved?
MR. ZONEN: Objection. Irrelevant and hearsay; lack of foundation.
THE COURT: Sustained.
Q. BY MR. MESEREAU: Have you had discussions 4070

with Janet Arvizo about this case?
A. About this case, not really.
Q. And what do you mean by “not really”?
A. I mean, the only thing she -- at one time --
Q. I’m not asking you what she said. I’m just asking you if you’ve discussed this case with Janet.
A. Yeah, maybe. Yeah, maybe I did one time.
Q. Maybe one time?
A. Yes. Yes, I did.
Q. And when was that maybe one time?
A. Maybe one time about -- God, I don’t know when it’s about. The case was on the sheriffs and the District Attorney and everybody else. Was maybe about six, seven months, eight months ago.
Q. Okay. When did you last see Janet?
A. I guess, approximately, maybe about seven, eight -- six months, seven months ago.
Q. Months ago?
A. I don’t know exact -- I’m very bad with time, so don’t corner me on that.
Q. And where did you see her?
A. I saw her in her apartment.
Q. And where was that?
A. It was in West L.A. somewhere.
Q. Okay.
A. It was Jay’s apartment, or their apartment, or whatever.
Q. So you visited Janet and Jay in their 4071

apartment in West Los Angeles, correct?
A. Yes, I did.
Q. I'm not asking you the address. I don't think that's relevant. But West Los Angeles is very different from East Los Angeles, isn't it?
A. Yes, it is.
Q. Much more affluent, correct?
A. Some of the places. Some of the places.
Q. But generally, as an area of Los Angeles, it's one of the most affluent areas of Los Angeles, isn't it?
A. Yes. They have poor places and rich places, yes.
Q. It is considered one of the most affluent parts of L.A., correct?
MR. ZONEN: Objection. Irrelevant and lack of foundation. He's not a --
THE COURT: Asked and answered.
MR. MESEREAU: Okay. All right.
Q. And who arranged for you to meet with Janet Arvizo and Jay Jackson at an apartment in West Los Angeles?
A. Nobody arranged it.
Q. Somebody must have, right?
A. No. I mean, I call up --
Q. You just ended up there?
A. Do you want me to tell you how I did? I called. I wanted to find out how Gavin -- how he's

doing. So I want to see his physical -- how his face, everything is okay. I said, “I’ll come and drop by. I have time to drop by and come see you.”
Q. Without saying what anybody told you, did you discuss this case in Jay Jackson’s apartment with Jay and Janet?
A. No.
Q. This topic never came up?
A. No.
Q. How did you know where to call to arrange the meeting?
A. I have Janet’s cell number, and I have Jay’s number.
Q. Okay. Now, in 1993, you told the sheriffs that you had introduced the Arvizos to Adam Sandler, correct?
MR. ZONEN: I’ll object as vague. 1993?
THE WITNESS: 1993?
MR. MESEREAU: Pardon me, pardon me, pardon me. I’m sorry. Counsel is correct.
Q. In 2003 --
A. Yes.
Q. -- you told the sheriffs you had introduced the Arvizos to Adam Sandler, correct?
A. Yes, I did.
Q. Okay. And when did you do that?
A. Now, let’s define a couple of things, because I don’t want to get in a corner again. 4073

Arvizo, what do you mean by “Arvizo”? Describe what you mean by “Arvizo.” I mean, who you mean. Give me the name of the people you want to know so I can give you direct answer, if you don’t mind, please.
Q. Any Arvizo that you introduced to celebrity Adam Sandler.
A. Gavin.
Q. Okay. And when did you introduce Gavin to Adam Sandler?
A. The date? I don’t know the date.
Q. Approximately when?
A. God, I know I drove him to Sony Studio. I talked to Adam, and he said, “Bring him over.” I took him to Sony Studios. Adam took him to lunch, took me and Gavin to lunch, and then after that we went to his office. Do you want to know more?
Q. Sure.
A. Okay.
(Laughter.)
A. I’ll go ahead.
Then we went to his office. Then we played, sit down on the couch, played basketball with Gavin.
And Rob Schneider was there.
And then at that point Adam Sandler gave Gavin a little T.V., a Sony T.V. with a little battery and everything on it.
And Gavin said, “Oh, God, he gave me a T.V.”
I said, “Go ahead and say thank you to him,” and 4074

that was it.
Q. To your knowledge, did Gavin ever see Adam Sandler again?
A. Not as far as I know.
Q. Okay. Now, you indicated that you organized a blood drive for Gavin, right?
A. Yes, sir.
Q. Did that take place at The Laugh Factory?
A. We put a name on marquee. We put a sign in the door. Anybody comes in, if they have O negative, that they go give blood, they tell me they did it, we let them come in free. They can have free drinks, whatever, all of that stuff.
Q. Now, at some time did you ever learn that Michael Jackson had arranged a blood drive for Gavin as well?
MR. ZONEN: Objection. Assumes facts not in evidence, and lack of foundation, and hearsay.
THE COURT: Overruled.
THE WITNESS: That's the first time I heard.
Q. BY MR. MESEREAU: You didn't know about that?
A. No, sir, I'm sorry.
Q. Do you know someone named Philip Palmer from KABC in Los Angeles?
A. Yes, I do.
Q. And did you ever introduce Philip Palmer to any of the Arvizo family? 4075

A. Yes.
Q. Approximately when was that?
A. The time Gavin was in bad need of blood, and he came to hospital. I was interviewed by Philip Palmer, and we talk about he needed blood. And Phillip Palmer show that thing on ABC.
Q. Okay. And did you introduce any of the Arvizos to any other newscaster that you can recall?
A. Newscaster. God, there were a few of them. Maybe Patrick Press (sic), Patrick Press (sic) from FOX TV, they did a documentary. PBS, they did a documentary on Laugh Factory comedy camp. Their newscasters or producer of all of that, they were there. They were introduced.
Who else? A lady from FOX was introduced to Janet. And Fritz Coleman. I forgot his name. Fritz Coleman.
Who else? Really I'm going blank. There might be more people.
Q. You said that Mr. Press (sic) had something to do with a documentary for PBS, correct?
A. What?
Q. Mr. Press (sic) had something to do with a documentary for PBS, right?
A. No, he did not.
Q. You did mention a documentary, didn't you?
A. Yes, he did a documentary on the comedy camp for FOX, for FOX T.V. 4076

Q. Okay.
A. And his name was Patrick Press (sic), and he did it on the family. He did it on the -- if you want to get the tape, he did the whole thing on the family, where they were living, and what they were doing, what trouble they had, all of that. He did a whole -- you could get the tape. It's a wonderful tape. I saw --
Q. This is the Arvizo family, correct?
A. Yes, sir. Yes, sir.
Q. And approximately what year did this documentary on the Arvizo family appear on television?
A. You're asking a question that I don't know.
Q. Just approximately.
A. Huh?
Q. Just approximately. I'm not asking for a specific date.
A. Maybe -- maybe in -- in '99, 2000. I'm not sure.
Q. To your knowledge, was Gavin ill when that documentary was produced?
A. I know PBS, the documentary they did, Gavin was sick, because PBS -- Carol Thompson went with me to the hospital and taped Gavin in the hospital. I know that. That's, what, in 2000, I think or 2001. Or 2000. Yeah, 2000. And Patrick Press (sic) -- now, let me -- I want to make sure I'm -- you know, 4077

get my date -- Patrick Press (sic)start doing the
documentary in the club --
Q. Okay.
A. -- for FOX TV. And I believe he did some
add-up to it later on for FOX from -- from when
Gavin was sick. I'm not sure. You get the tape,
you can see better than me. I'll tell you about it.
Get the tape and all of you can review it --
Q. Okay.
A. -- instead of asking me about it.
Q. I want to ask you what you know about it.
Okay?
A. Yeah.
Q. So the PBS documentary on the Arvizos is
something separate from the FOX documentary you just
discussed, correct?
A. PBS, they did a documentary, two hours
documentary.
Q. Right.
A. On The Laugh Factory comedy camp that is
going to be -- let me give a plug to everybody
watching. It's going to be on the Comedy Central or
E! TV, so watch it. It's two hours documentary on
Laugh Factory comedy camp.
Q. Right.
A. And wasn't only to Arvizo, but Arvizo -- and
Gavin was part of that as he was sick. And he was
part of following me, what I do all day, where I go, 4078

what I do, all of that stuff, with the comedy camp.
Q. Okay.
A. And FOX TV was particularly on Arvizo.
Q. Yes, okay. Now, part of the -- of the PBS documentary included you visiting the hospital to see Gavin, right?
A. Yes. Yes.
Q. And it also included other material on the Arvizo family, correct?
A. No, I think you're getting everything confused. You're getting like me.
Q. I'm just --
(Laughter.)
Q. All right. All right. Did the -- did the PBS documentary -- maybe you should ask me questions, I think.
A. At this point I should.
(Laughter.)
Q. Did the PBS documentary --
A. Yes.
Q. -- include anything about the Arvizo family, other than your visits to the hospital to see Gavin --
A. No.
Q. -- to your knowledge?
A. No.
Q. Okay. Then you had the FOX documentary, correct? 4079

A. Yes, sir.
Q. And that was filmed after the PBS documentary, right?
A. No, you're getting confused. Before.
Q. Before it?
A. Yeah. Because the '99 --
Q. Yes.
A. -- Gavin and Star and Davellin, they were all in the comedy camp.
Q. Right.
A. And Patrick Press (sic) came in to do the documentary; "Let us show on the news" what I do about the comedy camp.
Q. Okay.
A. And that's -- he start it. But I think PBS documentary started 2000. Year 2000, we were doing the comedy camp, so don't get them confused. So PBS is different from -- what you call -- Patrick Press (sic). It happened the year the Arvizo, they were in the comedy camp.
Q. Okay. And that's before Gavin got ill?
A. Yes, sir.
Q. Okay. Okay. Did you arrange for Press (sic) to do that documentary?
A. I really don't know how we came about. My office did. I have no idea how it came about. I really don't know.
Q. How did the Arvizos end up in that 4080

1 documentary, if you know?
2 A. I have no idea.
3 Q. Did you recommend that they be in that
4 documentary?
5 A. I think I have a vague idea. No, I didn't.
6 Q. Do you know how many of the Arvizo family
7 members were in that documentary?
8 A. It was all three of them, they were.
9 Q. All three of the children?
10 A. The children, yes.
11 Q. And were they performing in that
12 documentary?
13 A. Yes, they were a little bit performing, as I
14 recall. Now, don't corner me. As I recall.
15 Q. You're in the documentary, too?
16 A. Yes, sir. I'm the star.
17 Q. That's what I figured. Okay. The second
18 documentary --
19 A. Okay.
20 Q. Excuse me. There are a lot of documentaries
21 going on here, because there are a few more also,
22 right?
23 A. Hopefully. God willing. Why not?
24 Q. One of the documentaries involving the
25 Arvizo family came about because Janet asked you to
26 do it, correct?
27 A. Janet asked me to do it?
28 Q. Yes. 4081

MR. ZONEN: I'll object as vague as to which documentary he's referring to.
THE COURT: Overruled.
You may answer.
THE WITNESS: I really don't recall if Janet asked me anything. If she did, I don't recall it.
Q. BY MR. MESEREAU: You don't know one way or the other?
A. Really, I don't. At this point, I don't recall it.
Q. Okay. Now, did Philip Palmer --
A. Yes.
Q. -- on KABC announce a blood drive only, or a fund-raiser, to your knowledge?
A. To my knowledge -- oh, God, you get me cornered again here. What -- I really don't -- I think it was mostly blood drive. I'm not sure. Again, don't quote me on it.
Q. And -- I would never quote you. Don't worry about it.
A. Good.
Q. It was your idea --
A. Yes.
Q. -- to introduce the Arvizos to Michael Jackson, correct?
A. No, it wasn't my idea.
Q. Was it Gavin's idea?
A. It was Gavin's idea. 4082

Q. Okay. And because Gavin asked you, you called Neverland, correct?
A. Gavin was -- I was encouraging him to eat.
Q. Yes.
A. And he asked me -- he was watching T.V. He said, “Michael is my idol. How can I meet him? Can you arrange it?”
And I want -- at that point I want to say, “I’ll make a wish come true. Yeah, I could do anything. You want me to help, I’ll help.”
And I want to encourage him, “Eat, eat, eat.” I say, “Yeah, I’ll go do it, I’ll go do it.”
Q. And you told the Santa Barbara Sheriffs in your telephone -- excuse me. You told the District Attorney investigator in December of 2003 that you did it because Michael does good stuff for kids, right?
A. I believe so. Did I say that? If I said it, I believe him.
Q. I can show you the transcript.
A. No, I’m sure I did.
Q. Okay. Okay. And was it your understanding that you were the first person to make any contact between the Arvizos and Michael Jackson?
A. No way. I do not know was the first person. God knows who did. Maybe Michael just watched the T.V. and felt good in his heart. He call him. I have no idea. 4083

Q. To this day, you have never met Michael Jackson?
A. No. This is the first time I've seen him.
(To the defendant) How are you?
THE DEFENDANT: (Indicating).
Q. BY MR. MESEREAU: Okay. Now, you learned at some point that the Arvizos made contact with comedian Chris Tucker, right?
A. Yes, sir.
Q. And how did you learn about that?
A. I didn't -- I didn't learn about it. I introduce him to Gavin.
Q. When was that?
A. In my club.
Q. Approximately when; do you know?
A. I have no idea of the date again.
Q. Did you learn at some point that Janet and Davellin were calling and asking for Chris Tucker's car?
MR. ZONEN: I'm going to object as assuming facts not in evidence, as well as relevance, as well as lack of foundation and hearsay.
THE COURT: Sustained.
Q. BY MR. MESEREAU: Do you know anything about any efforts by any Arvizos to obtain a car from Chris?
MR. ZONEN: Objection. Irrelevant and hearsay; lack of foundation. 4084

THE COURT: Sustained.
MR. MESEREAU: Okay.
Q. You told the D.A. investigator in '93 that
Chris Tucker took -- I mean in --
MR. ZONEN: '93?
MR. MESEREAU: I keep saying that.
Q. 2003; you kept --
A. You --
Q. Let me rephrase that.
You told the District Attorney investigator
in 2003 that Chris Tucker took the Arvizos shopping,
correct?
A. Yes, I did.
Q. Okay. Do you know when that happened?
A. I have no idea the date. And I remember
what Chris Tucker told me.
Q. How did you learn about that?
A. Chris Tucker has told me, he said, "Jamie, I
love those kids" --
MR. ZONEN: I'm going to object as hearsay.
THE COURT: Sustained.
THE WITNESS: So I don't answer it, Your
Honor?
THE COURT: No.
THE WITNESS: Okay. Good.
Q. BY MR. MESEREAU: Did you ever go on one of
those shopping trips with Chris Tucker and the
Arvizos? 4085

A. No. I didn't have time.
Q. Okay.
MR. ZONEN: Objection, assumes facts not in evidence that there were shopping trips with Chris Tucker and the Arvizos.
THE COURT: Sustained.
MR. ZONEN: Motion to strike the answer.
THE COURT: Stricken.
Q. BY MR. MESEREAU: Do you recall Rob Schneider ever giving gifts to the Arvizos?
MR. ZONEN: That's a "yes" or "no" question, I believe.
THE COURT: Counsel, if you have an objection, make it.
MR. ZONEN: Lack of foundation, Your Honor.
THE COURT: Foundation; sustained.
Q. BY MR. MESEREAU: Did you introduce the Arvizos to comedian Rob Schneider?
A. Arvizo -- you got to identify. Meaning Gavin?
Q. Any Arvizo.
MR. ZONEN: I'll object as vague.
THE WITNESS: Yeah. Yeah.
Q. BY MR. MESEREAU: Did you introduce Gavin Arvizo to comedian Rob Schneider?
A. Yes, I did.
Q. To your knowledge, did any other member of the Arvizo family meet Rob Schneider at any time? 4086

A. Yeah, I remember Louise and David, they came to -- they wanted to meet all the celebrity. They want to meet Rob Schneider and -- what was the name? Adam Sandler. They came, “Oh, can we get introduce him? And I said, “Guys, this is for the kids. That’s not for you guys. You’re grown up. Come on.”

Q. Were you ever present when comedian Rob Schneider was with Gavin Arvizo?

A. Yes, I was.

Q. And where was that?

A. It was at lunchtime. We had a lunch, three of us, four of us together. And then we went to his room at Sony and we played -- we sat on the couch and played ball, basketball towards the wall. We throw balls to the wall.

Q. On that occasion, did you see Rob Schneider give gifts to Gavin of any kind?

A. I saw Adam give him. No, I don’t remember if he gave him, no.

Q. Well, that’s the day that Adam Sandler and Rob Schneider were with Gavin, right?

A. Yes.

Q. You were there. And somebody gave him a television, right?

A. I told him Adam Sandler.

Q. Did you see Rob give him anything?

A. Rob gave him a hug. 4087

Q. Anything else?
A. I don't know. I don't think so.
Q. Now, at some point, you paid for the Arvizo rent on their home, correct?
A. Yes. Not Arvizo home, David's home, yeah.
Q. Well, David was married to Janet at the time, correct?
A. Yes, sir.
Q. So why do you want to single out David and not Janet if you're paying both of their rent?
A. I don't single out. Because Janet wasn't asking me. David asked me for rent.
Q. David asked you; said they didn't have rent money?
A. Yes, sir.
Q. And you paid rent for Janet, David and the children, correct?
A. Yes, sir.
Q. Okay. How many times did you do that?
A. A couple of times -- a couple of times I think I gave him cash. I don't recall. I'm not sure. A couple of times.
Q. In total, how much cash do you think you gave the Arvizos?
MR. ZONEN: Objection; "the Arvizos."
MR. MESEREAU: Well, Your Honor --
MR. ZONEN: Vague.
MR. MESEREAU: I'll withdraw. I'll lay a 4088

1 better foundation.
2 Q. During the time that Janet and David were
3 married and living together --
4 A. Yeah.
5 Q. -- and during the approximate time that you
6 paid their rent, for Janet, David and the children,
7 how much money in total do you think you gave the
8 Arvizo family?
9 MR. ZONEN: Objection; “Arvizo family.”
10 It’s who he gave the money to.
11 THE COURT: Overruled. He asked for a total
12 of all of them.
13 THE WITNESS: I very openly -- I don’t do
14 charity for tax write-offs so I have a count of how
15 much to give. I give money from my heart. I never
16 write them as a tax write-off.
17 So I don’t know how much I gave him. I gave
18 him money whenever they ask me. It’s not a tax
19 write-off. I do it from my heart. Some people,
20 they know how much they give to this, how much they
21 give to that. I have no idea.
22 Q. BY MR. MESEREAU: Can you estimate in total
23 how much you gave the Arvizo family?
24 A. I have no idea. You know, I mean the time
25 they come in the office, “I need money for my gas, I
26 need money for food, I need this,” and you give them
27 50, 20, 30, 40, 50. Whatever you have in your
28 pocket, you give to them. You don’t sit down, “How 4089

much was that? How much was that?" I don't count
that. I go out there, I give to another person the
same thing.
Q. Obviously you were generous with them quite
often.
A. Yes, I was.
MR. ZONEN: Objection as to "them" as vague.
THE COURT: Sustained.
Q. BY MR. MESEREAU: Obviously you were very
generous to the Arvizo family.
MR. ZONEN: Objection to "the Arvizo family"
as vague.
MR. MESEREAU: Your Honor, with all due
respect, they're married and are living together.
MR. ZONEN: That assumes facts not in
evidence.
THE COURT: There has been an issue drawn in
this case about who asked for money and who gets
money. And that's why we have the objection. And I
will sustain the objection, have you ask
specifically who.
Q. BY MR. MESEREAU: When you paid for the
Arvizo rent, who did you give the money to?
A. Always to David.
Q. When you paid for the karate and judo
school, who were you helping out?
A. Gavin and Star.
Q. And that was as a result of a phone call 4090

from Jay Jackson and Janet Arvizo, correct?
A. It was -- yes, a conversation with Jay Jackson, yes.
Q. And Janet Arvizo, as you've already testified, was in the phone call, right?
A. Yes.
Q. David Arvizo was not in that phone call, correct?
A. No, he was not.
Q. Okay. Now, you did testify that David often asked you for money, right?
A. Yes, sir.
Q. And how many times, if you know, do you think he asked you for money?
A. I have no idea.
Q. Was it a lot?
A. He would come in -- you know, I mean -- you know, the people didn't know -- you got to picture something here. The kid -- the family out of work. The kid is sick. You know, and they react. They don't have no money, they have no mean of living, and you try to help. You don't ask how many. I mean, if you give them -- you've been in that situation, the same as me, you help out, whatever it is. You don't count them, how many time, how many year, how many this. You give help to people and that's what it's about.
Q. All right. And if they obtained a large sum 4091

of money from any civil settlement, you didn't know about it, right?
A. No, I did not.
Q. Okay. The only message you were getting was these people are poor, right?
A. That's what I got, yes, sir.
Q. Okay. Now, at any time did you learn that David Arvizo worked for the Teamsters?
MR. ZONEN: Objection. Assumes facts not in evidence; lack of foundation.
THE COURT: Sustained.
Q. BY MR. MESEREAU: Did you ever learn what David Arvizo's occupation was?
A. He said he used to work in a supermarket.
Q. Anything else he told you about?
A. No, he said supermarket.
Q. Okay. He never told you he worked as a Teamster, did he?
A. No. What's a Teamster?
Q. You don't know, right?
A. I have no idea.
Q. Okay. Okay. When do you think you introduced the Arvizos to George Lopez?
A. I have no date. I have no idea.
Q. Okay. And is George Lopez a friend of yours?
A. Yes.
Q. Still? 4092

A. Yes.
Q. Okay. And is Ann Lopez a friend of yours?
A. Yes.
Q. When did you last talk to them? Excuse me, let me rephrase that.
When did you last talk to George Lopez?
A. I haven't talked to George Lopez almost maybe three, four, five months. I was in a wedding. I saw him. Martin Leasak wedding. His agent was getting married. I was the best friend for his agent at UTA, and George Lopez was there and a bunch of other stars were there. We sat down; hello, how are you; hug. The same thing.
Q. You testified that you thought someone had made millions of dollars on the Bashir documentary, but that the Arvizo family had gotten nothing, right?
A. Yes, I did.
Q. And you didn't think that was right, correct?
A. That was right?
Q. You didn't think that was right?
A. No, my whole thing was, I saw they exploiting some underprivileged, underaged people that people in the media made a fortune out of that documentary. That was my personal belief. And they show this poor kid's face on that documentary, and the kids in the school calling him "fag," "faggot," 4093

I thought that was unfair.
Q. Right.
A. That was not fair there.
Q. You thought that Bashir did an injustice?
A. I thought that Bashir did injustice.
Q. Right. And you told Janet --
A. Yeah.
Q. -- that she should go to a lawyer because "They're making millions and your family is getting nothing"?
A. No.
Q. Well, that's certainly what you suggested earlier, wasn't it?
A. No. You got to listen to me or read it back what I said, okay?
Q. Okay.
A. What I said, I want to stop the people calling him names.
Q. Uh-huh.
A. I did not say anything about money or anything. Don't bring that up. We were talking about what was unjustice was done. He used that and showed his picture on the T.V, every newspaper, every print media, from electronic to, you know, print media, they all have his picture. I said that was very unfair. I want to stop that, because I didn't want the kid go to gas station, the guy in gas station say, "Here is that 4094

1 faggot. He slept with Michael." I did not want
2 that happen to any of my kid, and I think that's
3 unjustice.
4 Q. Do you remember telling a District Attorney
5 investigator that Martin Bashir made millions and
6 these underprivileged kids didn't get a cent?
7 A. Yeah, I did. I still say it.
8 Q. And one of the reasons you referred Janet to
9 Attorney Bill Dickerman was you learned she had
10 signed some document relating to the Bashir
11 documentary, correct?
12 A. It was -- maybe was later on. Don't mix it
13 up. Maybe it was later on that she said she
14 signed -- the first time we went to Bill Dickerman,
15 it was all about that kid show the picture on the
16 documentary was unjustice. I wanted to stop
17 newspaper, everywhere it is, we -- "Can we stop
18 that?"
19 Q. Now, did you learn at some point that
20 Michael Jackson and Janet Arvizo had sued the
21 British company that did the documentary in England?
22 A. I did not know that.
23 Q. And did you ever learn that Michael Jackson
24 had sued for a number of reasons, including they put
25 his children on the documentary?
26 MR. ZONEN: I'm going to object as lack of
27 foundation, and hearsay, and relevance.
28 THE COURT: Sustained. 4095

Q. BY MR. MESEREAU: Did Janet ever inform you that she was involved in a lawsuit with Michael Jackson against a British production company?
MR. ZONEN: Objection. Hearsay, lack of foundation, relevance.
THE COURT: Sustained.
Q. BY MR. MESEREAU: Do you remember telling a District Attorney investigator they made money and they didn't give anything to the Arvizos?
MR. ZONEN: Objection; hearsay.
THE COURT: Overruled.
THE WITNESS: Again, you got to question again.
MR. MESEREAU: Sure.
Q. Do you remember telling a District Attorney investigator in 2003 that with respect to Bashir's company, they made money, and didn't give the Arvizos anything?
A. How could I make that comment? I'm still making that comment, too. How could I?
Q. And you felt that Bashir and his company had taken advantage of an underprivileged kid, right?
MR. ZONEN: Objection; asked and answered.
THE COURT: Overruled.
You may answer.
THE WITNESS: Yes, I do.
Q. BY MR. MESEREAU: Okay. How many meetings with Janet and Attorney Bill Dickerman did you 4096

attend?
A. Hmm, God. I think maybe about four or --
maybe four, five, or three. Four. I think I
remember four of them.
Q. And when did you first meet Attorney Bill
Dickerman?
A. When did I ever met him?
Q. Yes.
A. He became my attorney a long time ago. He
represent me, and I thought he did a very good job.
Q. And how many years had he represented you
before you introduced the Arvizos to him?
A. I would say over five, six, seven, eight.
Q. Had he represented you in various lawsuits?
A. Yes, sir.
Q. How many lawsuits?
MR. ZONEN: Objection; irrelevant.
THE COURT: Sustained.
Q. BY MR. MESEREAU: How many times have you
testified under oath before today?
A. Testify under -- maybe three times. Three
times, four times.
Q. Do you remember a case where you sued
someone named Roy Kavin?
A. Yes, I did.
Q. And approximately when was that?
A. God, that was my neighbor in my club, who
came in, he did something to my club. I don’t know. 4097

I can’t remember the date.
Q. You testified under oath in a deposition in that case, correct?
A. Yes, I did.
Q. Do you remember you were asked questions about when you became an American citizen?
MR. ZONEN: I’m going to object as irrelevant.
THE COURT: Sustained.
Q. BY MR. MESEREAU: Do you remember your not recalling when you went to high school?
MR. ZONEN: Objection; irrelevant.
THE COURT: Sustained.
Q. BY MR. MESEREAU: Do you remember your not knowing where you worked?
MR. ZONEN: Objection; irrelevant.
THE COURT: Sustained.
Q. BY MR. MESEREAU: Do you remember testifying under oath you didn’t know when you became a comedian?
MR. ZONEN: I’m going to object to the content of this deposition in total. Irrelevant.
THE COURT: Sustained. No further questions unless you make an offer of proof to the Court.
MR. MESEREAU: Your Honor, I can prove that this witness --
THE COURT: Outside the presence of the jury.
MR. MESEREAU: Okay. Okay. 4098

Q. Do you recall at any time talking to
Attorney Larry Feldman?
A. I don't think I spoke to him personally. I
don't think I met him, spoke to him. I went to his
office.
Q. You went to his office?
A. Yes, I did.
Q. When did you go to Attorney Larry Feldman's
office?
A. One time Bill Dickerman call me. He said he
have -- he and Larry Feldman, they was going to meet
with Arvizo and if I would be kind enough to, you
know, bring them there. I say, "Yeah, I will be
more than happy to do it."
Q. Did you participate in any meeting between
any of the Arvizos and Attorney Larry Feldman?
A. No, I did not.
Q. By the way, you've testified about your
concern that Gavin was being made fun of by
schoolmates after the Bashir documentary, right?
A. Yeah.
Q. And do you remember telling a District
Attorney investigator that, as a result of that,
Janet wanted her kids to go to a private school, and
you told her you would help send them?
A. They were thinking about to send him, the
kid, to a school that they would not make fun of
him. And they were -- they did -- they were 4099

deciding to do it. And I said, “What’s holding you guys back? If you guys need any money for private school, I volunteer, give you whatever you need.”
Q. Okay. But Janet at that point wanted her kids in a private school, correct?
A. Didn’t want a private school. Want him to be somewhere, the people, they don’t make fun of her son, calling him “faggot.”
Q. But you told the D.A. investigator that Janet wanted her kids in a private school, told you about it, and you said you would help send them, correct?
MR. ZONEN: Objection; asked and answered.
THE COURT: Sustained.
Q. BY MR. MESEREAU: Did you ever help send the Arvizo children to a private school?
A. Yes, I did.
Q. When was that?
A. I have no idea. After Martin Bashir, and the kids, they call him “faggot.”
Q. Was that when she was in a relationship with Major Jay Jackson, to your knowledge?
A. Yes. Yes.
Q. Did you know what his income was at that point?
MR. ZONEN: Objection; asked and answered.
THE COURT: Overruled.
THE WITNESS: No idea. 4100

Q. BY MR. MESEREAU: Did you ever ask Major Jay Jackson, “How much do you make?”
A. No, it is not my business --
Q. Okay.
A. -- how much he makes.
Q. How long did you help with the private school?
A. I just wrote him one check. It was very little money. Very, very little money. I just give them one check.
Q. And again, that was after the Bashir documentary, right?
A. Yeah. Yes.
Q. And would it be safe to say that was in the year 2003?
A. If that’s what’s -- the year it happened, yes.
Q. Okay. Okay. Now, you talked to an investigator for the Santa Barbara District Attorney’s Office about Maury Povich. Do you remember that?
A. I don’t recall it, but if you said so.
Q. Do you recall doing that?
A. I said I don’t recall it, but if you said so.
Q. No, I’m not telling you what to say.
A. I don’t recall.
Q. You don’t recall ever discussing Maury 4101

Povich?
A. I might have. I have hundred things going every day. Do you remember three years ago what you did, what you said, who you talked to? No.
Q. Do you want to cross-examine me?
(Laughter.)
A. No, I'm just saying reality. Let's look at reality of things. We are human beings. You don't remember what you said every day. We are human beings.
Q. I understand. But if you don't remember --
A. No, I'm saying probably I did, but I don't remember.
Q. Okay. How long were you in Larry Feldman's office?
A. Maybe about -- not even his office. I was never in his office. I was never in his office. Describe his office. What do you mean by "office"?
Q. What do you think "office" means?
A. "Office" meaning if I go to Judge office, he have his office up there. This is courtroom. This is waiting room. I was in waiting room. I never went to Judge office. That's why I call it Judge office.
That's a waiting room. I was in the waiting room. I never went to his office. That's what I meant by "office."
Q. Okay. So you were in Larry Feldman's 4102

waiting room while the Arvizos were in Larry Feldman's office, right?
A. No, they were sitting waiting with me.
Q. Okay.
A. We waited there.
Q. At some point did Attorney Larry Feldman come out and see all of you?
A. No, somebody, I don't know who, what, somebody came out, said, "We going to take you to conference room."
They take me to conference room. And after we went to conference room, I -- I told Janet that I felt uncomfortable, I want to leave, and then at that point they went -- they went to talk. And somebody came, I don't know if it was Larry. Whoever it was, they said, "Jamie, you could leave."
Q. Did you leave?
A. Yes, sir. Yes.
Q. Did you ever see Attorney Larry Feldman again?
A. On T.V.
Q. Did you ever personally see him again?
A. No, I never saw him personally.
Q. Okay. Now, let me just go back to your meetings with Attorney Bill Dickerman and the Arvizos, okay?
A. Yes, sir.
Q. The first meeting at Bill Dickerman's 4103

1 office, correct?
2 A. Yes, sir. No, not in his office. Again, in
3 a conference room. Let me make a correction.
4 Q. The first meeting is in the offices of
5 Attorney Bill Dickerman in a conference room,
6 correct?
7 A. Yes, sir.
8 Q. And present are Attorney Bill Dickerman and
9 the Arvizos, correct?
10 A. Yes, sir.
11 Q. Did anyone call the police at that meeting?
12 A. Not as far as I knew.
13 Q. Okay. The second meeting you had with the
14 Arvizos and Attorney Bill Dickerman was at The Laugh
15 Factory, correct?
16 A. Yes, sir.
17 Q. And nobody called the police at that
18 meeting, correct?
19 A. No, sir. It was suggested.
20 Q. Nobody called the police at that meeting,
21 correct?
22 A. And I said it was suggested. Not called.
23 Q. The third meeting between Attorney Bill
24 Dickerman and the Arvizos was at The Laugh Factory,
25 right?
26 A. Yes, sir.
27 Q. Nobody called the police at that meeting,
28 correct? 4104

A. No, sir.
Q. Did you say there was another meeting with Attorney Bill Dickerman and the Arvizos that you were somehow involved in?
A. Yes, sir.
Q. And where was that?
A. That was -- I was going to -- I was going to watch Gavin and Star. They were playing on the baseball team --
MR. MESEREAU: Your Honor, I'd request the witness just respond to the question.
THE WITNESS: What was -- did I say wrong?
THE COURT: The question was, "And where was that?" You had another meeting.
MR. MESEREAU: Where was the --
I'm sorry, Your Honor. I'll rephrase.
THE COURT: All right.
Q. BY MR. MESEREAU: Where did the fourth meeting involving you, the Arvizos and Attorney Bill Dickerman take place?
A. It was in the restaurant in Farmers Market in Los Angeles, California. And then from there, we went to baseball team behind farmers market.
Q. So the meeting between you, the Arvizos and Attorney Bill Dickerman took place in farmers market in Los Angeles?
A. Yeah. Again, can you describe what you mean "meeting"? To clarify that. 4105

Q. Did you meet with Attorney Bill Dickerman and the Arvizo family at the farmers market in Los Angeles?
A. Yes, I did.
Q. That meeting occurred after the three prior meetings between the Arvizos and Bill Dickerman that you've described, true?
A. I think so. I'm not sure.
Q. And nobody called the police at that meeting, correct?
A. No, sir. No, sir.
Q. At some point you learned that Attorney Bill Dickerman had contacted Attorney Larry Feldman, right?
A. Yes, sir.
Q. And that was because Dickerman told you --
MR. ZONEN: I'll object as speculative or hearsay.
MR. MESEREAU: State of mind, Your Honor.
MR. ZONEN: Well, again, he's speculating as to another person's belief.
THE COURT: He told you he was going to use that state of mind on you quite a bit, remember? I didn't get the whole question. So I can't tell. You interrupted him, actually.
MR. MESEREAU: Okay.
THE COURT: Do you want to rephrase?
MR. MESEREAU: Sure, Your Honor. 4106

Q. At some point in time, you learned that
Attorney Bill Dickerman, who had represented you for
many years, had referred the Arvizos to Attorney
Larry Feldman, right?
MR. ZONEN: Objection. Hearsay; lack of
foundation; also relevance as to this witness's
testimony.
THE COURT: The objection's overruled.
Did you learn that?
THE WITNESS: Did I learn Bill Dickerman
introduce -- was talking to Larry Feldman?
THE COURT: And introduced the Arvizos.
THE WITNESS: Yes, sir.
THE COURT: Okay. Next question.
Q. BY MR. MESEREAU: Yes. Now, Mr. Masada, in
one of your sheriff's interviews, you said you were
involved in several fund-raising efforts on behalf
of the Arvizo family, right?
A. I said -- I don't recall how many times. I
said about two, three of them, yeah.
Q. Was it two or three?
A. I think it was two. After I was thinking
about it, it was two.
Q. And did both of those take place at The
Laugh Factory?
A. Yes, sir.
Q. Now, you told the Santa Barbara Sheriffs
that you made arrangements with the Arvizo family to 4107

receive door charge moneys on several occasions, right?
A. “On several occasions.” Maybe I said twice.
Q. You told them “several occasions,” didn’t you?
A. Maybe I made a mistake.
Q. Okay. And you arranged for the Arvizos to be at the entrance to The Laugh Factory and allow them to get door charge moneys, correct?
A. Yes, sir.
Q. You told the Santa Barbara Sheriffs that it was four nights in total, right?
A. I counted the blood drive and all of that stuff. It was two nights.
Q. Okay. You said on each occasion David and the children would man the front door and personally collect the entry fees from customers, right?
A. Yes, sir.
Q. You don’t know how much they collected, do you?
A. Not really. I remember one particular one, the first one it actually was. At the time they have nurses and everybody from hospital coming in, and one of the nurses came in back door, and knocked the door, and she told me, she said, “Well, I want to come to the club, but I don’t have money with me. I thought they didn’t -- I didn’t know it was going to cost money to come in.” 4108

And I remember that I gave her some cash. I said, “Go ahead. For you, here’s some cash. Go in front and walk in, and here’s the money.”
I remember that. Some of the stuff like that stands out in my mind.
Q. You told the Santa Barbara Sheriffs that the Arvizo family kept all of the money collected at the door, right?
A. Yes, sir.
Q. You said that you and the Laugh Factory absorbed the operating, employee and performer costs, right?
A. Some of the performers, they are -- most of the time they are -- if I ask them -- they are big comics, like Bob Saget, Howie Mandell, all of these guys. They come in, they don’t get money. But sometime you pay them, see the money. Pay some of the people, they need money. You know, you give them money.
But usually those -- those costs is covered by the time -- one person, you know, decide to come to the club, they are thirsty, they want to have a drink, watch the show. They have a drink, and that costs usually covers that.
Q. But just to get back to my question, you and the Laugh Factory, which you own --
A. Yes, sir.
Q. -- absorb the operating, employee and 4109

performer costs for those evenings, right?
A. Yes.
Q. And you told the Santa Barbara Sheriffs there was no accounting for how much money was gathered on any of the evenings in question, right?
A. Meaning Gavin, or what are you talking about? The money, how much they got?
Q. Yes. You told the sheriffs there was no accounting for what they got, correct?
A. No. Yes, absolutely.
Q. You told the sheriffs you didn't think any of the fund-raisers exceeded $3,000, right?
A. He asked me, he said, "What do you think? A thousand? 2000? 3,000?" I said, "I don't think it was ever more than 3,000." That's what I said to him.
Q. And you also told the Santa Barbara Sheriffs that you thought the family may have received monetary donations from media exposure through people you knew, correct?
A. On one occasion, yes.
Q. Which occasion was that?
A. I remember Fritz Coleman, he did something on -- for blood drive, and somehow had said something about some kind of financial aid or something. It was a bank account or something. But I'm not sure. I wasn't involved with it. I don't know anything about it. 4110

Q. When you say “bank account,” what are you referring to?
A. Something -- I have no idea. Some kind of thing with Fritz Coleman. I don’t know. He put it on the screen or something. I have no idea. I heard about it. I’m not 100 percent sure. I’m just talking about it. I don’t know exactly. Maybe I should say I don’t really exactly know.
Q. Do you remember telling anyone that you had gone to the hospital and paid some of Gavin’s medical bills?
A. No. There was a person from press. They did that, and I find out about it. Somebody told me about it. And I called there, she said she’s going to retract it. And she never retracted. She kind of mislead me. But I never said that.
Q. So you were misquoted by someone in the press to that effect?
A. Yeah, the press, they want to get attention to another paper or television, they say stuff like that. You are aware of, right?
Q. You’re saying you never told anyone in the press that you had personally paid for medical bills for Gavin?
A. I never -- I helped them out. I never paid for medical.
Q. Okay. And never told that to anybody in the press, correct? 4111

MR. ZONEN: Objection; asked and answered.
THE COURT: Sustained.
Q. BY MR. MESEREAU: You told the Santa Barbara Sheriffs that on more than one occasion Janet and Jay Jackson approached you for assistance, correct?
MR. ZONEN: Judge, I'm going to object as hearsay. Unless it's a prior inconsistent statement.
THE COURT: I'll sustain the objection.
Q. BY MR. MESEREAU: Periodically, Jay Jackson and Janet would ask you for assistance, right?
A. No, only twice Jay ask me. And he didn't ask me for assistance. I volunteered. Don't change it around.
Q. Well, you just said he asked you, didn't you?
A. We were talking about it. He said they didn't have enough money to pay for the thing. And I said, "I'll pay for it." He didn't say, "Give me the money." This is a different thing. If you ask me for money, it's different.
Q. What do you think he was suggesting when he told you he didn't have money to pay for these things?
A. Meaning maybe they didn't have money. You don't know. I don't know. How do you know if they didn't have money? Maybe they didn't have. Maybe they were broke by that point. I have no idea. 4112

Q. Did you issue checks to Gavin, Star and Davellin?
A. Yes, I did.
Q. And how many checks did you issue to Gavin, if you know?
A. I think one time they performed, the time to make them become -- the only -- you know, a lot of people, they go around, they say, “I’m a comedian. I’m a this. I’m an actor. I’m a this, that, and that.” They just call themselves. They never get paid for it.
But to make performance, like Gavin, Star, and Davellin, to make them a performer, you pay them as a comic. And I did pay them as a comic one time.
Q. Now, the government prosecutor, Mr. Zonen, showed you two checks --
A. Yes.
Q. -- that you had written to David Arvizo, correct?
A. Yes, sir.
Q. But you told the Santa Barbara Sheriffs that you wrote a check to Janet or Jay on one occasion, correct?
A. Yeah, I think so. I did to Jay or Janet, I’m not sure which one, yeah.
Q. And you told them the check was endorsed by Janet Arvizo?
A. I never said it was endorsed. I don’t look 4113

at the back of the check, whose endorsement.
Q. Would it refresh your recollection if I show you the police report?
A. The check? The police report, I don't care what -- I don't look at the back of the check. I don't look at the back of the check. Maybe you misunderstood.
Q. Let me just ask the question. You just have to answer it. It's being recorded.
A. Sorry.
Q. Would it refresh your recollection --
A. Yes.
Q. -- about your telling the Santa Barbara Sheriffs --
A. Yeah.
Q. -- that Janet Arvizo endorsed that check if I show you the police report?
MR. ZONEN: I'll object to references and statements to Santa Barbara Sheriffs as hearsay, unless they're prior consistent statements.
THE COURT: The objection is overruled. He's asking about refreshing his memory.
THE WITNESS: I don't recall that. I do not recall that.
Q. BY MR. MESEREAU: Would it refresh your recollection if I show you what they say you said?
A. No, it doesn't make any difference. I know what I said. I don't recall it. So you can say 4114

anything you want.
Q. Do you recall ever writing a check for Shana Traunfeld?
A. Yes, I did.
Q. And that check was to purchase a bed for the Arvizo children, correct?
A. “Arvizo children.” Describe what “Arvizo children” means.
Q. What do you think it means?
MR. ZONEN: I’m going to object as vague.
THE WITNESS: My --
THE COURT: He’s asking for more specific names, please.
Q. BY MR. MESEREAU: Did you ever issue a check --
A. Yeah.
Q. -- to Shana Traunfeld --
A. Yeah, who was my assistant.
Q. -- for the purpose of purchasing a bed for any of the three Arvizo children?
A. Yes, I did.
Q. When was that?
A. The time we went up there for Christmas. I went up there to see them, give them something for Christmas. I saw the kid, half of his face was swollen up. He had a lot of scar on his face, and they were sleeping on the floor.
I felt bad. I went and told them 4115

immediately, “Buy them a bunk bed. At least get them something going.” They were living on the floor. God.
Q. Did you ever give any member of the prosecution team a copy of that check?
A. I don’t -- my office supposed to give it.
Q. Did Prosecutor Zonen ever ask you if you could give him a copy of that check?
A. Mr. Zonen himself? Never.
Q. Does Prosecutor Zonen ever ask you to give him copies of any other checks that you wrote to any member of the Arvizo family besides David?
A. Okay. No. The prosecution, Mr. Zonen himself, or all of the guys? You got to declare. Mr. Zonen you’re talking about? Only Mr. Zonen? Or of his team?
Q. Only Mr. Zonen.
A. Mr. Zonen, no, I don’t think so. I don’t recall he called me asking me that.
Q. Do you recall any member of the prosecution team ever asking you for copies of checks you wrote to members of the Arvizo family other than David?
A. Yes. They’re people, they ask me.
Q. Who?
A. I don’t remember his name.
Q. Did you give copies of those checks to them?
A. I think I -- I told my office to give them whatever they need. 4116

Q. Do you know if that ever happened?
A. I think it happened. I'm not sure. I think it did happen.
Q. Did any of these prosecutors sitting at the table ever ask you for copies of those checks?
A. Those three people? No.
Q. Okay. They only wanted checks involving David, correct?
MR. ZONEN: Objection as to what they wanted as speculative.
MR. MESEREAU: I'll rephrase it, Your Honor.
THE COURT: All right.
Q. BY MR. MESEREAU: In truth, Mr. Masada --
A. Yes.
Q. -- the prosecution in this case only wanted copies of checks you wrote to David?
MR. ZONEN: Objection as to what they wanted and speculative on his part.
THE COURT: Sustained.
Q. BY MR. MESEREAU: You said you told someone at your office to give members of the prosecution checks you'd written to the Arvizos, is that correct?
A. Yes, sir.
Q. Who did you ask at your office to do that?
A. I told my assistant or my accountant to find the checks and, you know, make a copy and give it to them. 4117

Q. Now, you wrote other checks to members of the Arvizo family that you can't locate, correct?
A. I don't know what you mean by that.
Q. Do you remember telling the Santa Barbara Sheriffs that there were other checks you wrote as gifts to the Arvizos that you can't find?
A. That was the three checks of the $50, I think it was, that I did put them -- I don't know if they ever found them.
Q. Didn't you say you could not retrieve copies of those checks?
A. Yeah, I did. I ask -- I ask my accountant, and he said, "I don't know. I don't know where they are." And he said, "Wherever they are, I can't find them." And I said, "Go find them."
Q. Did you ever find them?
A. I really -- I think they did. I'm not sure. I'm not going to say something. I'm not sure.
Q. In his direct examination, the prosecutor didn't refer to any of those checks, did he?
MR. ZONEN: I'll object as irrelevant.
THE COURT: Sustained.
Q. BY MR. MESEREAU: You indicated that you owned more than one Laugh Factory; is that correct?
A. Yes, sir.
Q. And where are The Laugh Factories you own located?
A. One is in Los Angeles. One is in New York 4118

City.
Q. Any others?
A. One we building in Long Beach. One we did have in Hawaii.
Q. Any others?
A. No, sir.
Q. So how many do you own at the present?
A. Two.
Q. And you're building a couple of others?
A. No. I said --
Q. What did you just say?
A. You got to listen.
Q. Okay.
A. One we building in Long Beach. And one is -- in Hawaii is closed.
Q. Okay.
A. So we have right now, present time, two.
Q. Okay. All right.
A. Do you want the address for them?
Q. I'll talk to you after court. We can give --
A. You are there. Me and you can have a comedy team.
Q. Okay. All right. All right.
(Laughter.)
Q. When did you last talk to Jay Jackson?
A. Jay Jackson. God. God, Jay Jackson, maybe about three, four -- three months, four months ago. 4119

How am I -- Christmas was -- I will say about three, four months ago.
Q. And where did you talk to him?
A. On the phone.
Q. Okay. Did he call you?
A. He might have. I'm not sure if I call him, you know. You get on a day's routine, you don't remember, if he call me or I call him.
Q. Did you discuss this case?
A. No, I did not.
Q. Said nothing about it?
A. No, sir.
Q. Never came up?
A. No.
Q. Okay. Was Janet involved in that discussion?
A. No.
Q. Okay. And when did you last talk to Janet by phone?
A. I think you asked me that already.
Q. When did you last talk to Janet by phone?
MR. ZONEN: Objection; asked and answered.
MR. MESEREAU: I don't know if I did ask that.
THE WITNESS: Yeah, you did, the look on your face.
(Laughter.)
MR. MESEREAU: If I did, I apologize. 4120

THE WITNESS: You did.
Q. BY MR. MESEREAU: When did you last talk to her by phone?
MR. ZONEN: Had there been a ruling by the Court, Your Honor?
THE COURT: I don't remember.
(Laughter.)
THE WITNESS: You too. We just go back and forth, you know.
THE COURT: Go ahead and answer.
THE WITNESS: Three, four months ago. You know, I have no idea. Three, four months. Could be before Christmas, right before Christmas.
Q. BY MR. MESEREAU: Let me ask you this: When did you last talk to Janet about this case?
MR. ZONEN: Assumes facts not in evidence that he ever talked to Janet about this case.
MR. MESEREAU: I'll rephrase it.
MR. ZONEN: And vague as to what "this case" is.
THE COURT: He did say that he talked to Janet about the case a long time ago. You can rephrase it.
THE WITNESS: So where are we?
Q. BY MR. MESEREAU: When did you ever discuss this case with Janet?
A. It was a long, long time ago. About maybe -- I don't know. 4121

THE COURT: See, I told you.
THE WITNESS: I don't recall the date. I'm sorry.
Q. BY MR. MESEREAU: I'm not asking you for the date. I'm asking you just to give your best estimate as to when you last talked to Janet about this case.
A. And I'm really -- I want to be as open as I can. I can't remember. I spoke to her one time. I don't remember when was it, what month was it, what year was it. I know I spoke to her.
Q. Okay. Do you remember discussing with David Arvizo the fact that The Laugh Factory has a charity committee?
A. Yes, I did.
Q. When did that discussion take place?
A. He came to my office and he was -- keep asking me for more money, and more money, and more money, and more money, and more money.
And at one point, I said, "Well, if you need more money, what you have to do" -- because I have something, it's called Laugh Factory Academy of Comedy and Arts. That's a -- I put money myself into that account, and I help a -- a comedian, for example, if their father died, if comedian sick, they don't have any money for their doctor bills or something, I write a check for them.
And I say, "If you want more money," because 4122

I wanted to try to tell him -- I didn't know how to say no to him. So that's why I say this. I say, "If you want to come to the committee, talk to the committee, and we take it from there."
Q. Can I have some?
(Laughter.)
A. If you are -- with your job, with your earnings, if you get broke. I don't know how much you making.
(Laughter.)
Q. Okay. You've testified about a truck that you learned that Michael Jackson had given to the Arvizo family, correct?
A. I never said "truck." Never used the word "truck."
Q. How did you describe the vehicle?
A. It was what, a "sudan." What do you call that car? I'm not too much fascinated by cars or monetary stuff. I don't know any of those stuff. I know a car was -- the car is S -- SUV, SIV, whatever it is. And it was a white car, you know. It's a big huge car. So it's a white car it was.
Q. And when did you learn about that?
A. David came in my office. He was very excited. He said Michael gave him a car. And I said, "Oh, that's wonderful." And he said, "Come on, come on, come on, I show you." And I said, "I'm in the middle -- I'm helping other kids," this, 4123

this. And he said, “Come on. He waited there.
And I went out outside, and we saw him. He
park the car right in front of the fire hydrant, and
I remember that, because I was, “You can’t do that.
That’s against the law. You’re going to get a
ticket already.”
And he show me, open the door, and I
remember the car was white. And there was a T.V. on
the dashboard. I remember that.
Q. Did you get in the car?
A. No, I looked in the car. The door, they
opened the door, but I didn’t get into the car and
drive it around, no.
Q. How many times did you see that car at The
Laugh Factory?
A. You know, he would come to my office. A
couple of times I saw him drive in that car, drive
away, because he was -- he needed money for gas for
this car, because he was telling me that particular
car, Michael gave it to him, it lose a lot of gas,
and he need more money for gas. So that’s how he
was getting more money from me.
Q. Do you remember telling a Santa Barbara
Sheriffs officer --
A. Yeah.
Q. -- that you wrote Janet a check for
Christmas?
A. Write Janet a check for Christmas. No, I 4124

don’t recall that.
Q. Would it refresh your recollection if I show you a transcript of your interview?
A. I mean, I’m just saying I don’t recall it.
Q. Would it possibly help you recall it if I showed you a transcript of your interview?
A. I’m telling you, I don’t recall. If I don’t recall and you show me anything, I don’t recall saying that.
Q. You don’t want to give it a try?
A. First of all, I have dyslexia. I can’t see very good, so you’re going to read it to me. If you want, bring it over.
Q. Did you ever tell a Santa Barbara Sheriffs officer during a recorded interview, “I did write a check personally, 800, a thousand dollars, whatever, you know, not this Christmas, Christmas before that to Janet.” Do you remember saying anything like that?
A. Maybe I meant David. I wrote the check for David, $800. Maybe that’s -- somehow I mix up the name. That could be.
Q. You may have written a check to David for a thousand?
A. For 800 to a thousand, yes.
Q. Do you recall saying you gave Janet a check at any time?
A. I might have made a mistake, their name 4125

1 together.
2 Q. Okay. Okay.
3 THE COURT: Let’s take a break.
4 (Recess taken.)
5 THE COURT: Go ahead.
6 MR. MESEREAU: Thank you, Your Honor.
7 Q. You know Louise Palanker, correct?
8 A. Yes, I do.
9 Q. And when did you first meet her?
10 A. Several years ago. She’s -- she comes in.
11 She volunteers, you know. She’s -- she’s a lady,
12 she volunteers, you know, sometimes for charity,
13 different stuff, especially times at Christmas, we
14 do for homeless. She comes in, she dish up some
15 food for homeless people. And she comes in, we do
16 some services for high holidays, Jewish high
17 holidays. That’s what we do.
18 Q. And would you call her a regular at The
19 Laugh Factory?
20 A. No, she’s not regular, what you describe
21 regular, regular comics or regular --
22 Q. Do you see her often?
23 A. I haven’t seen her lately.
24 Q. Is she a good friend of yours?
25 A. She’s -- she’s one of those ladies, she want
26 to be a comic and you try to help her. And
27 sometimes being -- trying to help them, you got to
28 give them bad news. 4126

(Laughter.)
A. Like if I tell them they're not funny, they take it very personal.
Q. I gather you told her she's not very funny.
A. Well, I -- let me tell you. I find you are more funny than she is.
(Laughter.)
Q. Could I join your comedy class? I'm in the wrong profession, I guess.
A. I think so. You got a job after this case is over. Come see me.
Q. When did you learn Louise Palanker had donated $20,000 to the Arvizo family?
A. I think I told you about it. At the time I find out, I was going to find an apartment for Gavin, because he was coming out of the hospital and he needed a sanitated -- meaning the room, it had to be sanitation room, and I find out Louise went and wrote the check. She's a very rich woman. She wrote the check.
Q. And when did you learn about that?
A. I don't remember. I don't remember the date.
Q. Did she ever come to you to talk about it?
A. No, she never talked about it. She -- I heard about it. She gave it to them, and I -- I thank her.
Q. When did you thank her? 4127

A. I don’t remember. Some -- one of the conversations we had. I don’t remember.
Q. Did you learn at some point that she wrote two checks, not one?
MR. ZONEN: I’m going to object as irrelevant, lack of foundation and hearsay.
THE BAILIFF: Your microphone’s not on.
THE COURT: Overruled.
You may answer. You may answer.
THE WITNESS: You want my answer? I’m sorry.
Yes, I did.
Q. BY MR. MESEREAU: And approximately when did you learn that?
A. I cannot recall. I -- sometime.
Q. When did you last see Louise?
A. Maybe about year, year and a half ago, two years ago.
Q. Did you ever discuss this case with her?
A. No. She called me, told me she came to the court and whatever, whatever. She did say that afterwards.
Q. When was this?
A. I believe she was driving from the court home.
Q. Was this last week?
A. Last week, yeah.
Q. She called you after she left court?
A. I think so. Sometime afterwards. 4128

Q. Did she discuss with you anything she had said in court?
A. She said that you have made this court like O.J.'s court or Robert Blake court, and you was changing the words around and you made it -- lied. You lied and you changed the words and took the stuff out of context, and she told me a bunch of stuff.
And I said, "Well, hey, you go there, you tell the truth. That's what it's all about," and I didn't want to hear it.
Q. She complained to you that she had been secretly recorded by the sheriffs calling you a pathological liar, correct?
MR. ZONEN: I'm going to object as irrelevant and argumentative.
THE COURT: Sustained.
Q. BY MR. MESEREAU: Mr. Masada --
A. Yes.
Q. -- you've told the jury what she called to tell you about after court, correct?
A. Yes.
Q. And isn't it true that she called because she was worried that she had been recorded secretly by the sheriffs calling you a liar?
MR. ZONEN: I'm going to object as lack of foundation. As well, argumentative and speculative as to what she was worried about. 4129

1 THE COURT: It's not relevant. Sustained.
2 Q. BY MR. MESEREAU: Your answer to that last
3 question was not truthful, was it?
4 MR. ZONEN: What last question are you
5 referring to? It was sustained, Your Honor, the
6 last two questions.
7 MR. MESEREAU: I'll rephrase it, Your Honor.
8 Q. Your answer to this jury under oath --
9 A. Yes.
10 Q. -- to the question about what Louise
11 Palanker called you about after court was not the
12 truth, was it?
13 MR. ZONEN: Objection; argumentative.
14 THE WITNESS: It was truth. I don't know
15 what you're talking about. That's what she said.
16 THE COURT: I'll let the answer stand.
17 Q. BY MR. MESEREAU: Mr. Masada, do you
18 remember talking to a District Attorney investigator
19 about what Star Arvizo had said to you about
20 Neverland?
21 A. I don't know what conversation you're
22 talking about. Refresh my memory, please, if you
23 don't mind. I spoke to them many times.
24 Q. Let's go back to December 23rd, 2003. Do
25 you remember talking to a District Attorney
26 investigator named Tim Rooney?
27 A. If you said so.
28 Q. Remember telling that investigator that you 4130

had discussed with Star Arvizo what Star experienced at Neverland?
A. If you refresh my memory about it. I discussed it -- refresh my memory, if you don't mind, please.
Q. Do you remember telling the District Attorney investigator that you had discussed Star Arvizo's claims regarding Michael Jackson's alleged abuse at Neverland?
A. I don't recall what I have said. Can you -- what was -- again, re -- say it some more, please.
Q. Sure. Do you remember telling a District Attorney investigator named Tim Rooney that you had discussed with Star Arvizo what Star experienced with Michael Jackson at Neverland?
A. I don't recall it right now.
Q. Remember telling a District Attorney investigator that Star told you what he saw Michael Jackson do at Neverland to he and his brother?
A. To do to him and his brother in Neverland?
Q. Yes.
A. No, I don't recall that.
Q. Do you remember telling a District Attorney investigator, "Star Arvizo never mentioned wine. He mentioned sleeping pills"?
A. Oh, yeah. What he told me. I didn't discuss it. You got to clarify what you're saying.
Q. Okay. 4131

A. Okay, let's clarify.
Q. You told him, "Star never mentioned wine.
He mentioned sleeping pills," correct?
A. Let me explain it to you, if you want me --
Q. Did you say that? Yes or no?
A. I think I did. Yes, I did.
MR. MESEREAU: I have no further questions,
Your Honor.

REDIRECT EXAMINATION
BY MR. ZONEN:
Q. Were you questioning Star Arvizo about what
happened at Neverland?
A. No, I did not.
Q. What was the context of that conversation
you just relayed to us?
A. They got in my car, and Gavin got in the car
and started to --
MR. MESEREAU: I'm going to object as
hearsay, Your Honor.
MR. ZONEN: It's in response to the
questions elicited by counsel.
THE COURT: You need to be more specific.
Q. BY MR. ZONEN: What specifically was the
context of the conversation that talked about a pill
versus alcohol?
THE COURT: Are you -- relating it to Star,
right? 4132

MR. ZONEN: Yes, with regard to Star.
Exactly.
THE WITNESS: Star got in my car and --
Gavin got in the car. Star got in the car. He said something about, “I’ve got pills and I’ve got sleeping pills.”
And at that point I have this guilt, this Jewish guilt, I didn’t want to know about it. I said, “I don’t want to know anything about it.”
I cut him off. I didn’t want to know anything about it. And he was just trying to give me some information that -- I didn’t ask him what has happened, what -- any of that. I never ask him anything.
Q. BY MR. ZONEN: Did he give you anything more than five or ten seconds’ worth of information?
A. No, because I -- I cut him off, because I felt that’s not my position. I’m not --
Q. Did it appear that he wanted to talk to you about what happened?
A. I think he wanted to talk to me.
Q. Was anybody else present at the time?
A. Gavin was present.
Q. Was he talking to you about what happened?
A. Gavin? No. I remember I felt uncomfortable because Gavin put his head down, he was kind of like almost teary, because something that he said. I looked at Gavin, and I saw Gavin feel uncomfortable, 4133

and I look at Star, “Star, I don’t want to know anything. Thank you. Let’s talk about another thing. Let’s talk about baseball. Let’s talk about something else.”

Q. Was Gavin’s behavior different when you saw him after he came out of Neverland?

A. He was a little withdrawn. He was -- with me, anytime he saw me before, he hug me; he said, “I love you.” Now he was kind of withdrawn. He wouldn’t --

MR. MESEREAU: Objection; nonresponsive.

MR. ZONEN: I think it is.

THE COURT: Sustained.

Q. BY MR. ZONEN: How was his behavior different after Neverland?

MR. MESEREAU: Objection; no foundation.

THE WITNESS: I don’t know if it was after Neverland. I don’t know.

MR. MESEREAU: Beyond the scope.

THE COURT: Sustained.

Q. BY MR. ZONEN: You mentioned three checks for $50.

A. Yeah.

Q. What were those three checks for?

A. The three checks was for the -- their performance, their endorsement, “You are a comic now.” As soon as you get a check, you are -- your first check, you become a professional. If you 4134

become a professional, anything you do, you are attorney -- if you are attorney, you could go say, “I’m an attorney” because you went and passed bar exam.
A lot of people walk around in this room, they say, “I’m a comedian” --
MR. MESEREAU: Objection. Nonresponsive; move to strike.
THE COURT: Sustained.
Q. BY MR. ZONEN: All right. But this was $50 for each of the three Arvizo children?
A. Yes.
Q. And was this for their performance?
A. Yes, sir.
Q. Was this the graduation performance?
A. It was some kind of graduation performance, before the graduation, yes, sir.
Q. Did you give checks to just the Arvizo children or to other children?
A. No, all of the children, every children. The children, they went and perform, I endorse them as a performer. As a person, they endorse, “You are a comic now. You have a license to go out there, say ‘I’m a comic.’”
If somebody go out there, say, “I’m a comic,” and they don’t get a check, everybody going in this town, they are waiter and waitress, they are comic or they are actress or actor. 4135

Q. All right. So you did this for all of the children --
A. Yes, sir.
Q. -- you didn't just single out the Arvizo children?
A. No, I did it for all the children.
Q. I showed you two exhibits, Exhibit No. 624 and 623, these photocopies of the checks; is that correct?
A. Yes, sir, you did.
Q. And you established that these are, in fact, photocopies of the two checks that you gave to Mr. Arvizo, David Arvizo?
A. Yes, sir, I did.
Q. All right. Are these accurate photocopies? I mean, do they depict the subject matter accurately?
A. It look like, but I'm not sure if it's accurate. It's whatever. You know, my accountant sent them. I believe they are accurate.
Q. Well, go ahead and take a look at both of them. Let's start with the first one, 624.
A. 624, yes.
Q. Now, that's in your handwriting; is that right?
A. No, it's not my handwriting.
Q. Oh, it's not?
A. No.

Q. And have you ever seen that check before?
A. That's my signature.
Q. But it's -- okay. Your signature is on the check?
A. Yes, sir.
Q. But the check was made out by whom?
A. Could be made out by my assistant. It could be made out by my -- my accountant wasn't, because if my accountant was up there, he would do it on the computer. My assistant or somebody, or somebody -- one of my -- the other co-workers that work for me. Any of the employees.
Q. Now, as to that check, do you have a recollection of that check?
A. Yes, I do.
Q. All right. Does that photocopy appear to be an accurate photocopy of the check, as you recall it?
A. I believe so.
MR. MESEREAU: Objection; asked and answered.
THE WITNESS: I believe so.
MR. ZONEN: I would move that exhibit into evidence. I believe it's 623.
THE WITNESS: No, 624.
MR. MESEREAU: May I see it first, Your Honor?
THE COURT: Yes. 4137

MR. ZONEN: While counsel is looking at that exhibit --
Is that what you're doing, Counsel?
MR. MESEREAU: Yes.
Q. BY MR. ZONEN: Let me direct your attention to 623, then.
THE COURT: Wait till he looks. Just give him a chance to look at it.
MR. MESEREAU: Okay. Thank you, Your Honor.
THE COURT: All right. It's admitted.
Q. BY MR. ZONEN: As to the other one, then, 623, correct?
A. 623, yes, sir.
Q. Is that a check that you either signed or had anything to do with?
A. I signed it. And then I think -- if it's computer like that, it's my accountant did that.
Q. Okay. But did you just say you did sign it?
A. Yes, sir, I did.
Q. Can I assume if you signed it, you looked at it?
A. I'm sure I did.
Q. Can you tell us if that photocopy is an accurate photocopy of the check?
A. It looks like exactly my check.
MR. ZONEN: I would ask to admit that exhibit as well.
MR. MESEREAU: No objection. 4138

THE COURT: It's admitted.
Q. BY MR. ZONEN: Now, the money that you gave to either Janet or Jay for private school, that was actually a tutorial program, was it not?
A. What was it?
Q. A tutorial program. Do you know what that is?
A. No.
Q. Just for private tutoring?
A. It could be. I have no idea. Something to do with a school or something; that they were talking about they want to take him out, you know, put him in somewhere that people make -- not making fun of him.
And I want -- you know, they had so much money, but they didn't have enough money. And I said, "How much you need to make it up?" And they said that much, and I did.
Q. Did they ask you for that money?
A. No. I volunteer.
Q. Did this come in the course of a discussion about the fact that they needed some extra education?
A. It could have.
Q. Were you aware that they were out of school for a long period of time when they were at Neverland?
A. That's what I understood. 4139

Q. Was that in the context of this discussion?
A. I don't recall that.
Q. Okay. The money that David Arvizo was given by you for rent, did you pay that money directly to the landlord?
A. No.
Q. You gave it to whom?
A. David. I said, "If you want me write the check for landlord, let me know who is the landlord, and I'll write the check to the landlord." He said, "No, no, no, write it to me." And I said, "Okay."
Q. Did you have any assurance that that money actually went to pay the rent?
A. I have no assurance, no.
Q. Do you --
A. No way.
Q. Do you know one way or the other?
A. I have no idea.
Q. Do you believe David Arvizo to be an honest person?
A. You know, I can't -- you asking something that -- you know, you don't know people in that kind of situation. They have -- a poor guy, he's losing his kid and all of that stuff. You don't really -- you really don't know. I mean, you can't read people. I wish I could read people. The only thing I thought he ever done dishonest, was bad, that money I gave for the 4140

wallet.
MR. MESEREAU: Objection; nonresponsive.
Q. BY MR. ZONEN: All right. Well, let me ask you this. The money you gave him for rent, was that before or after the whole controversy about the wallet and the $300 or $350 being missing?
A. I don't know. Can I look at the checks?
Q. Would that help you?
A. Yeah, because the date's on top.
Q. Sure. Go ahead.
A. Yeah, that was ten days before the other one happened.
Q. All right. Do you have an opinion as to whether or not that representation that George Lopez stole money from Gavin's wallet was true?
MR. MESEREAU: Objection; improper opinion.
THE WITNESS: I -- I don't --
THE COURT: Just a moment.
Sustained.
THE WITNESS: Shall I answer it? Or --
THE COURT: No. Don't.
Q. BY MR. ZONEN: Whose idea was it to put the children in a karate school?
A. It was the kids. They were talking about it, and I ask Jay and Janet, "We should do something for the kid, get their energy going," and that and that. And they said they did not have the money. I said, "Where's" -- "Let's find out where 4141

it is. I'll go take them there. I take care of it."
It was me took them to the karate school.
It was on Santa Monica Boulevard somewhere, I think, if I'm not mistaken. Maybe I'm wrong.
And we took them there and I talked to the instructor, and I talked to them and I said, "How much it is," and they said so much money, and I said, "Here is the check."
Yeah, that's what I did. I give them a check and I enrolled them, so let them go.
Q. So you actually paid the money directly to the karate school?
A. Yes, sir. Yes.
Q. On the bed, did they ask you to buy a bed for them?
A. No. No, no, no, no, no.
Q. All right. What happened?
A. I went there, I saw the kid. Half of his face was swollen because his kidney, he have one kidney, one spleen. And he -- any day he could buy all of this. I don't know what you guys do in this kind of stress. You might put him back in the hospital again. He might go to the hospital. You got to realize what's going on. This kid have one kidney, he have no spleen, and his cancer on submission. It could come back with the stress --
Q. Tell me about the bed. 4142

A. The bed, I went up there, I saw the face.
He was all swollen. He was -- a couple of scars on
his face, and he was like all swollen.
I said where it came from? He said from his
kidney. The doctor said it was from his kidney.
And so I said, “Oh, my God, what’s going on? Can I
do anything?” I said, “Where you sleeping?” Maybe
infection or something.
They said they sleeping on the floor there.
And I said, “Where’s your bed?” They didn’t have no
bed. And, oh, my God, “You kids have no bed?”
And I went -- I leave from there or I
went -- yeah, I call my assistant. My assistant was
at lunch or wherever it was. And I went to the
office, “Go right now, take off. Go get the bed for
them, deliver the bed.”
Q. Nobody asked for that bed?
A. No.
Q. Did Janet Arvizo ever ask you for money,
ever?
A. No. Did not.
Q. You talked about two documentaries. There
was the FOX documentary and then the PBS documentary
that followed.
A. Yes, sir.
Q. Were those documentaries about The Laugh
Factory?
A. Was -- was -- one of them was about The 4143

1 Laugh Factory comedy camp. Another one was about
2 Laugh Factory comedy camp, but Arvizo was featuring
3 in it.
4 Q. They featured the Arvizo family?
5 A. Yes, I think.
6 Q. Was this before or after Gavin got sick?
7 A. They were before.
8 Q. So they were just three kids in the --
9 A. Yeah, they were three kids, and they were
10 showing them. I think it's a tape. You guys got to
11 watch it. It's a tape that --
12 MR. MESEREAU: Objection; nonresponsive.
13 Q. BY MR. ZONEN: Just tell us what it is.
14 A. It was about the kids, that they were --
15 where is their home, where they were living, how did
16 they take a bus to come there, and how they went
17 to -- what they call it? How they came to comedy
18 camp, how the comedy camp, they get -- they talk
19 about their pain and food they don't have, all of
20 that stuff they were talking about. It was a
21 documentary on that.
22 Q. Which one was that, the PBS or the FOX?
23 A. The FOX, sir.
24 Q. You mentioned a man by the name of Patrick
25 Press. Do you mean Patrick Perez?
26 A. Patrick Perez.
27 Q. P-e-r-e-z?
28 A. My spelling is terrible, yes. I'm sorry 4144

about spelling.
Q. Did you introduce him, Mr. Perez, to the
Arvizo family?
A. I don’t know if my office did or something.
I know he was there. I don’t know what happened.
Q. Do you know if any of the Arvizo children
got any money for this documentary?
A. I have no idea.
Q. Did you get any money for it?
A. No. I wish I should. I wish I get some
money. I didn’t get anything.
Q. Did you ask for money?
A. No, I didn’t. But I should have ask. I
didn’t ask for anything.
Q. Do you know the purpose of the documentary?
A. It was something -- they show a lot of
people in Hollywood. The people in -- in the
community, they know my charity. They know that
what I’m doing with the kids, it helps the kids.
The whole thing was, purpose of the documentary, to
show the success of the comedy -- what does comedy
do.
And again, it was -- it was all about
comedian, thanks to comedians, and comedians made
this whole thing happen. It wasn’t me. I don’t
want to take the credit all for myself. Any of that
credit goes to the comedians. The comedians, they
did that. As a result of the comedians, I wouldn’t 4145

have my club. So, it's critical to them. I'm
emphasizing to most documentaries, comedians should
be --
MR. MESEREAU: Objection. Nonresponsive;
move to strike.
THE COURT: Overruled.
Q. BY MR. ZONEN: Did you pay any money toward
medical bills that you're aware of for the Arvizo
family, or for Gavin specifically?
A. Never.
Q. Did anybody ask you to pay medical bills?
A. Never.
Q. Did Janet ever tell you she had medical
bills that she had to pay?
MR. MESEREAU: Objection; beyond the scope.
THE COURT: Sustained.
MR. ZONEN: Thank you. I have no further
questions.

RECROSS-EXAMINATION
BY MR. MESEREAU:
Q. You mentioned your computer in response to
the prosecutor's questions. Do you recall
mentioning a computer?
A. I mentioned the check is computer, meaning
my accountant have some kind of computer.
Q. Right. Do you remember being asked by a
Santa Barbara sheriff if you could provide 4146

accounting records or books about what you had given the Arvizos? Do you remember that?
A. I'm sure they did.
MR. ZONEN: I'm going to object as exceeding the scope of the redirect examination.
MR. MESEREAU: I think it's within the scope, Your Honor.
THE COURT: Overruled.
You may answer.
Q. BY MR. MESEREAU: And do you remember your response was, "Those books are gone because they raise computer viruses"?
A. That could have been happened one, two -- or twice. It happened on my office computer, my accountant, yeah.
Q. That is what you told the Santa Barbara sheriffs, right?
A. I could have. I don't know. If that happened at that time, I would have told them, yes.
Q. You said, "Those books are gone because they raise computer viruses," right?
MR. ZONEN: Objection; asked and answered.
THE WITNESS: That check is not confusing, sir.
THE COURT: Just a moment.
The objection is sustained.
THE WITNESS: Oh.
MR. MESEREAU: No further questions. 4147

MR. ZONEN: No further questions.
THE COURT: All right. Thank you. You may step down.
THE WITNESS: Thank you, sir.
THE COURT: Call your next witness.
MR. AUCHINCLOSS: People call Cynthia Ann Bell.
THE COURT: Come to the front of the courtroom, please.
When you get to the witness stand, please remain standing, face the clerk here. Raise your right hand.

CYNTHIA ANN BELL
Having been sworn, testified as follows:

THE WITNESS: I do.
THE CLERK: Please be seated.
THE WITNESS: Thank you.
THE CLERK: State and spell your name for the record.
THE WITNESS: Thank you.
My name is Cynthia Ann Bell. C-y-n-t-h-i-a, A-n-n, B-e-l-l.
THE CLERK: Thank you.
THE WITNESS: Thank you.
//
// 4148

1 DIRECT EXAMINATION
2 BY MR. AUCHINCLOSS:
3 Q. Good afternoon, Miss Bell.
4 A. Good afternoon.
5 Q. How are you employed?
6 A. I'm a corporate flight attendant.
7 Q. How long have you been a corporate flight
8 attendant?
9 A. Just under seven years.
10 Q. During the year 2003, who did you work for?
11 A. Xtra Jet International.
12 Q. And you were a corporate flight attendant at
13 that time?
14 A. That's correct.
15 Q. Have you ever personally worked on any
16 flights where Xtra Jet provided services to Michael
17 Jackson?
18 A. Yes, I have.
19 Q. And is he in court today?
20 A. Yes, he is.
21 Q. Okay. Would you identify him for the
22 record?
23 A. Yes, I can.
24 Q. He's seated to my right?
25 A. That is correct.
26 Q. Thank you.
27 Madam Clerk, could have I have Exhibits No.
28 31 through 34, if you can find those. 4149

THE WITNESS: I'm so nervous.
THE COURT: You can pour yourself some water, if you want.
THE WITNESS: Thank you.
THE BAILIFF: Miss Bell, is that almost empty?
THE WITNESS: Is it what?
THE BAILIFF: Miss Bell, is that almost empty?
THE WITNESS: Yeah, it's almost empty. Thanks.
MR. AUCHINCLOSS: We're zeroing in on it, Your Honor.
Q. All right. Miss Bell, I'm going to show you an exhibit marked as People's 31. Can you identify that person?
A. Yes.
Q. Okay. Who is that, please?
A. This woman was on a flight that I had done with Xrtra Jet International. I believe, yeah, she was definitely on that flight.
Q. Okay. Was it a flight in which Mr. Jackson was a passenger?
A. Yes.
Q. And I want -- I'm showing you People's Exhibit No. 49. I'd like you to -- we're having trouble locating the picture I'm looking for, but if you could ignore the woman in the middle. 4150

A. In the center.
Q. And just the three children. Have you seen those three children before?
A. Yes, I have.
Q. Were they also on that same flight?
A. That's correct.
Q. And do you recall where that flight flew from and where it was headed to?
A. Yes, sir. That was from Florida to Santa Barbara.
Q. Do you know the date of that flight?
A. It was either in February or March. Actually, on the trip sheets, that would tell you the exact dates, or I'm certain that --
Q. Do you have some notes that would refresh your recollection about the exact date?
A. That's correct.
Q. Do you have those with you?
A. No, I do not.
Q. All right. Now, that flight was you said -- what was the month?
A. I believe it was either February or March.
Q. And the flight started in Miami?
A. That's correct.
Q. And flew to Santa Barbara?
A. Santa Barbara.
Q. And do you recall who was on that flight other than those four individuals you've identified 4151

and Mr. Jackson?
A. Yes. Mr. Jackson's children were on board.
His head governess, Grace. His head of security.
The mother of two of the children. And I believe
that there were -- there was a medical doctor and
two other governesses.
Q. Do you know how long that flight took?
A. Approximately five hours.
Q. And were all the seats full?
A. Yes.
Q. Can you describe your duties on that flight?
A. Certainly. As a flight attendant, of
course, to greet the passengers and make certain,
upon take-off, that their needs are accommodated.
During the flight, continuous food and beverage
service.
Q. And how busy were you, if you recall, on
that particular flight?
A. Fairly busy.
Q. Did you ever have any breaks or downtime
where you were able to relax?
A. Typically, as a corporate flight attendant,
you don't really have time. You're typically pretty
busy. It's a smaller aircraft, with fewer
passengers, and you're typically just -- there's
never really any downtime.
Q. Okay. And how many people fly on a plane
like that, in total? 4152

A. Well, depending on the load, you could possibly have 12, depending on the configuration of your Gulfstream aircraft or your aircraft, depending on your passenger load or where they're going. There's times I've flown one passenger to London. There's been times where I've flown 16 passengers.
Q. My question, on that particular flight from Miami to Santa Barbara, do you know how many people were on the flight?
A. It was a full house. It was a full boat.
Q. And how many people would that be?
A. I believe it was in between 12 and 13.
Q. Do you also provide service to the pilots?
A. That is correct.
Q. And there are how many pilots?
A. Two.
Q. And you -- would it be safe to say that pilots and yourself are the only service personnel that are on the plane?
A. Pilots do not serve the passengers.
Q. Okay.
A. Flight attendants only.
Q. So other than the pilots and yourself, those are the only Xtra Jet employees on the flight?
A. That is correct.
Q. On that flight from Miami to Santa Barbara, did you serve Michael Jackson any alcoholic beverages? 4153

A. Yes, I did.
Q. And was there anything peculiar about the means or method that you served him alcoholic beverages?
A. Yes.
Q. All right. Tell us what you mean by that.
A. Well, Mr. Jackson is a very private drinker. I went ahead and initiated serving him in a Diet Coke can.
Q. How many times in total have you flown where you were a corporate flight attendant for Mr. Jackson?
A. Probably about three.
Q. Was that with Xtra Jet each time?
A. No, sir, it wasn't. I flew him with Pacific Jet once prior.
Q. Were you previously employed with Pacific Jet?
A. As a contract flight attendant.
Q. Was that before you worked for Xtra Jet?
A. Yes, as a full-time flight attendant, yes.
Q. Why did you serve Mr. Jackson alcohol in a Diet Coke can?
A. A couple different reasons. I serve other clients that way also. Why?
Q. Yes.
A. Because he's a private -- he was a private drinker. 4154

Q. Whose idea was it?
A. It was mine.
Q. Okay. And when did you formulate that idea to put the wine in a Coke can?
A. On the particular trip with Xtra Jet, I had accidentally for -- forgot and placed a wine glass in front of him.
Q. You say you accidentally forgot. Did you have some knowledge about the way that Mr. Jackson liked his alcohol served?
A. Yes, because I had flown him prior, and he had had alcohol in more of a plastic thermal, like, mug-looking thing. I don't know if that was just a Pacific Jet thing.
Q. You served him alcohol previous on the Pacific Jet flight in a plastic mug thing?
A. That's correct.
Q. And under whose instructions did you serve him alcohol in that method, and by that means, I should say?
A. I don't remember. I'm sorry.
Q. All right. But did Mr. Jackson ever tell you to serve him wine in a Coke can?
A. No, he did not.
Q. On that flight, do you know who was seated next to Mr. Jackson?
A. At different times, different parties were seated next to Mr. Jackson. For most of the time or 4155

for a lot of the time, there was a young man that was seated next to him.
Q. Okay. Was he one of the children that I showed you in the exhibit marked as People's 49?
A. Yes, sir.
Q. Which young man are you talking about?
A. Well, he looks a lot older than that picture, but I believe this, yeah.
Q. Okay. Indicating the boy in the blue shirt with the stripe through the middle, the one on the left-hand portion of the photograph?
A. That is correct. That is correct.
Q. The one where my finger is indicating?
A. That is correct.
Q. All right. Thank you.
A. Thank you.
Q. Do you know what his name is? Do you know what that young man's name is?
A. You'd have to refresh my memory.
Q. All right. That's fine. If you don't recall, that's fine.
A. Thank you.
Q. Okay. So what type of -- what type of seating arrangement was the area where Mr. Jackson was sitting?
A. In that particular Gulfstream, it was club seating, with a dinner table, a fixed dinner table.
Q. What's club seating? 4156

A. Club seating is two by two.
Q. Two seats facing each other?
A. Actually, it's a four-seated club configuration. So two passengers could face forward, two passengers could face aft in that particular seating of the aircraft.
Q. We don't apparently have an unmarked diagram, so I'm going to ask you just to explain it as specifically as you can.
So you have two seats that are side by side.
Is that fair to say?
A. Do you want me to sort of give you a demonstration of what --
Q. No. Just two seats side by side, normal airplane seats?
A. Two seats side by side, yeah, normal -- we're not like the airliners, so it's not -- when you say "normal," like normal seats, no. I mean, they're big, overstuffed seats, leather, with armrests, you know, separated armrests, but they are side by side.
Q. Is there anything in between the two seats?
A. On that particular aircraft, you could lower the armrests --
Q. Okay.
A. -- to --
Q. So you could lower an armrest between the two seats or you could lift it up? 4157

A. That's correct.
Q. All right. And then you have another two seats. You have a table and then another two seats that are facing the opposite direction?
A. Right. It would almost be like -- seated like if you were at a restaurant. A seat here, a seat here, a seat there, a seat here.
Q. That's fine. And you said that Mr. Jackson was seated most of the time near the young boy that you identified?
A. For -- yes.
Q. Okay.
A. Along with Prince and Paris, his children. They were always with Mr. Jackson when -- you know, on the other side or in his lap.
Q. Okay. But I'm drawing your attention at this time just to the young boy you've identified.
A. Okay. Thank you.
Q. And the period of time that he was seated next to Mr. Jackson, at any time during this flight, did you ever see Mr. Jackson share his -- well, let me strike that and start with the question, can you characterize how much wine Mr. Jackson consumed on that flight, if you recall?
A. It was a long flight. Yes, we went through our white wine, and so I would say a bottle or two. Perhaps even -- because I know I opened red wine, but I think I was serving red wine also to -- I 4158

was -- actually the medical doctor had rum and Coke and then went to red wine, so I was serving --
(Laughter.)
A. Well, that makes our flight sound scary.
Q. Okay. You said Mr. Jackson -- was he the only person drinking white wine; do you know?
A. Yes.
Q. And do you know approximately -- you said you opened one or two bottles of wine?
A. That's correct.
Q. Do you know if you got into a second bottle?
A. I believe that I opened -- that I -- yes, I believe that I had opened two bottles of white.
Q. Okay.
A. And one bottle of red, but they weren't completely consumed. I know the red was not completely consumed.
Q. Okay. And the second bottle of white wasn't completely consumed?
A. That's correct.
Q. Do you know if you served Mr. Jackson any white wine -- or, I'm sorry, any red wine?
A. I don't remember.
Q. Do you know if you served Mr. Jackson any mixed drinks?
A. On that -- I don't believe so.
Q. Okay. During this flight, how much of the time, if you can recall, did Mr. Jackson have a 4159

drink at his seat?
A. An alcoholic beverage, or --
Q. Yes, that's what I mean. I should have been more specific.
A. Okay. The can was always there. Where he was in club seating had an actual holder for the can. The can was -- was always present. I would refill the can whether or not he was drinking the beverage, consuming it the entire time. The drink was always there is I guess what I'm trying to maintain.
Q. During this flight, did you ever see Mr. Jackson share his can of wine with anyone else?
A. No.
MR. AUCHINCLOSS: Thank you. I have no further questions.
THE WITNESS: Thank you.

CROSS-EXAMINATION
BY MR. MESEREAU:
Q. Good afternoon, Ms. Bell.
A. Good afternoon.
Q. I'm Tom Mesereau. I speak for Michael Jackson.
A. Thank you.
Q. Now, you've had one interview with the Santa Barbara Sheriffs, correct?
A. That is correct. 4160

Q. And you also testified before a grand jury in Santa Barbara about this case, right?
A. That is correct.
Q. Okay. Now, how many times do you think you've flown with Michael Jackson?
A. I believe three; no more than six.
Q. And in none of the flights that you shared with Michael Jackson -- let me rephrase that. At no time on any flight you've been on with Michael Jackson have you ever seen him share wine with any child, correct?
A. That is correct.
Q. You've never seen Michael Jackson share a Diet Coke can with wine with any child, correct?
A. That is correct.
Q. You never saw the Arvizo children drinking from a Diet Coke can with alcohol at any time, right?
A. That is correct.
Q. You've never saw those children drinking from a Diet Coke can with wine, correct?
A. That is correct.
MR. AUCHINCLOSS: Objection; asked and answered.
THE COURT: Overruled. The answer is in. Next question.
Q. BY MR. MESEREAU: At no time did you ever see any of the Arvizo children appear intoxicated, 4161

right? Let me rephrase that. I think it's --
A. I actually served those children, but I
I.D.'d the oldest girl.
Q. You I.D.'d her?
A. I asked her for her identification.
Q. Did she give you identification?
A. She did, actually.
Q. Okay. And did it show she was 18?
A. It did not show that she was 18.
Q. Okay.
A. And I served her in crystal, knowing --
knowingly served her alcohol.
Q. You did?
A. I did.
Q. You never saw Michael Jackson give her
alcohol?
A. Absolutely not.
Q. And you've never seen any inappropriate
behavior between Michael Jackson and any child on a
flight, right?
A. That is correct.
Q. And you have never seen Michael Jackson
caress or touch any minor child in an intimate
manner, right?
A. That is correct.
Q. And, now, you indicated that his children
were always around him on the flight the Arvizos
were on, right? 4162

A. That is correct.
Q. You never observed Michael Jackson at any time when his children weren't around him, right?
A. I'm sorry, what?
Q. On the flight the Arvizos were on, you always saw Mr. Jackson's children around him, right?
A. Absolutely.
Q. And we're talking about three children, correct?
A. That is correct.
Q. And two nannies, correct?
A. Three nannies.
Q. Okay. Do you recall someone throwing food on the plane when the Arvizos were on board?
MR. AUCHINCLOSS: Objection. Relevance; beyond the scope.
THE COURT: Overruled.
You may answer.
THE WITNESS: Yes.
Q. BY MR. MESEREAU: You saw one of the Arvizos throwing food on the flight, correct?
A. That is correct.
Q. Do you know who that was?
A. Yes, the older of the children. The --
Q. Is that the female?
A. No. That was --
Q. Was it the mother?
A. No, but it could have been. No, it wasn't 4163

her.
Q. You saw one of them was throwing food?
A. Right.
Q. Do you know what that person looked like?
A. Yes, I do.
Q. What did that person look like?
A. Dark hair, lighter skin. It was more sort of a playful interaction that they had going.
Q. Was this a male or a female?
A. A fe- -- a male, actually.
Q. Do you know what the male's name was?
A. I'm sorry, I don't. I'm drawing a blank on their names.
Q. You described that male as very rude, correct?
A. Absolutely. Very rude.
MR. AUCHINCLOSS: Objection; relevance.
THE COURT: Overruled.
Q. BY MR. MESEREAU: Is that correct?
A. That is correct.
Q. And tell the jury what you mean by "rude."
A. The individual was unusually rude, discourteous, very -- I remember him talking about, "I got this watch from Michael, and it's really expensive," and just -- altogether just not -- just loud, obnoxious, like, "Serve me my food. This isn't warm. This isn't the way it's supposed to be." And he was just unintelligent. It was 4164

1 embarrassing to have him on board, actually.
2 Q. And do you have a picture in front of you?
3 Do you have that exhibit in front of you?
4 A. No, I do not.
5 MR. MESEREAU: Where is that?
6 Okay. May I approach, Your Honor?
7 THE COURT: You may.
8 MR. MESEREAU: Your Honor, I'm showing the
9 witness Exhibit No. 49.
10 Q. Ms. Bell, do you see that picture?
11 A. I do.
12 Q. Do you recognize the person you're
13 identifying as having been rude on the flight?
14 A. I do.
15 Q. And who is that?
16 A. This individual here.
17 Q. Which one is that?
18 A. You know, his name eludes me. I'm sorry.
19 MR. MESEREAU: May I have the witness point
20 out the person to the jury, Your Honor?
21 THE COURT: Yes.
22 THE WITNESS: This individual here.
23 Q. BY MR. MESEREAU: Is it your understanding
24 that person's name is Gavin?
25 A. Yes, sir, that is his name.
26 Q. Okay. Now, you told members of the grand
27 jury that you perceive Michael Jackson as a touchy-
28 feely kind of person, right? 4165

A. That is correct.
Q. And you said he was touchy-feely, kind of,
to you, right?
A. That is correct.
Q. What do you mean by that?
A. Well, he's very soft-spoken, and typically
because of -- he's very polite and very soft-spoken,
I would have to kneel and gain eye contact with Mr.
Jackson. And, you know, he is very, you know -- you
know, would touch my arm when we were communicating.
I don't mean touchy-feely like in a weird sort of
manner. Just sort of a polite, gaining eye contact,
you know, maintaining, you know, communication that
way.
Q. You never found Mr. Jackson to be rude or
impolite, did you?
A. Absolutely not, neither him or his children.
MR. MESEREAU: Could I have that exhibit?
Q. Now, just for the record, Ms. Bell, on
Exhibit 49, that's the picture of four individuals I
just showed you, correct? And that's the picture
that you pointed the individual out to the jury who
you found to be very rude and obnoxious, correct?
A. That is correct.
Q. And you pointed out the fellow to the far
left with a blue shirt, correct?
A. That is correct.
Q. Okay. Thank you. 4166

On that flight, Mr. Jackson was the only person who drank wine out of a Diet Coke can, right?
A. That is correct.
Q. And everyone else that ordered wine had it served in a flute-like glass, correct?
A. That's correct.
Q. And you described Mr. Jackson to the Santa Barbara Grand Jury as one of the most nervous flyers you'd ever seen, right?
A. That is correct.
Q. Please tell the jury what you mean by that.
A. Well, Mr. Jackson is just a very nervous flyer. He doesn't like turbulence. He -- he has been known to have -- not on my flights, but flights land if there's too much turbulence. He just does not enjoy flying. It makes him very nervous.
Q. And you discussed Mr. Jackson's nervousness on flights with his medical doctor, correct?
A. Yes. Actually, his medical doctor discussed it with me before we -- before we launched on our trip to Miami -- or from Miami to Santa Barbara.
Q. And the subject of that discussion was the fact that he, the doctor, understood that he wanted alcohol to deal with his nervousness, correct?
A. That is correct.
MR. AUCHINCLOSS: Objection. Assumes facts; hearsay.
THE COURT: Sustained. 4167

Q. BY MR. MESEREAU: How did you learn that
Michael Jackson was extremely nervous on air
flights?
MR. AUCHINCLOSS: Objection. Foundation;
hearsay.
THE COURT: Sustained.
Q. BY MR. MESEREAU: Did you know Michael
Jackson was a very nervous flyer?
MR. AUCHINCLOSS: Asked and answered.
Objection.
THE COURT: Sustained.
Q. BY MR. MESEREAU: What did Mr. Jackson like
to eat on those flights, if you recall?
MR. AUCHINCLOSS: Objection. Relevance;
beyond the scope.
THE COURT: Sustained.
Q. BY MR. MESEREAU: Do you remember the young
man in Exhibit No. 49, whom you've identified as
being rude, the young fellow with the blue shirt,
screaming at you that his chicken was not warm?
A. Yes, that is correct.
Q. You told the grand jury he's a weird kid,
correct?
A. Yes, I did.
Q. Michael Jackson always sat by the window,
didn't he? Do you recall?
A. I don't recall.
Q. Okay. Did you talk to his doctor on that 4168

1 flight very much?
2 A. I did.
3 Q. Did you know where the doctor was seated?
4 A. Yes.
5 Q. And please tell the jury where Michael
6 Jackson's physician was seated on that flight.
7 A. He was seated in the forward aft-facing
8 seat.
9 Q. Excuse me?
10 A. The forward aft-facing seat.
11 Q. And if you can, describe what you mean.
12 A. As you enter the Gulfstream, if you were to
13 make the right, and the first seat that seats
14 aft-facing, which would be facing the back of the
15 aircraft, that was the seat that he was seated in.
16 Q. And if you're in that seat, what is your --
17 let me rephrase that.
18 If you're sitting in that seat, what are you
19 likely to be able to observe on that plane? I mean,
20 what can you see as you sit in that seat, assuming
21 you're looking forward? What's in front of you?
22 A. That would be the -- the Arvizos' mom was
23 seated in the forward-facing seat, facing him.
24 Q. Okay.
25 A. He would -- he would be able to see in the
26 cabin, but not -- I mean, I probably have the best
27 seat in the house because I'm standing in the
28 galley. 4169

Q. And you were in a position where you could see everything going on on that flight, couldn't you?
A. That's correct.
Q. And --
A. Except for the pilots, because we close the pilots off.
Q. Okay. And you would describe that interior of the plane as very close and intimate, right?
A. Very much so.
Q. You were able to see everything that went on in that plane, couldn't you, other than what the pilots were doing?
MR. AUCHINCLOSS: Objection; asked and answered.
THE COURT: Sustained.
Q. BY MR. MESEREAU: Do you recall if you ever saw Mr. Jackson sleeping on the flight?
A. No, sir, he was not sleeping on the flight.
Q. Okay. Did you see him eat his meal on the flight?
A. Yes.
Q. Did you serve his children on the flight?
A. I did.
Q. What did you serve them?
MR. AUCHINCLOSS: Objection; relevance.
THE COURT: Sustained.
Q. BY MR. MESEREAU: Do you know someone named 4170

Lauren Wallace?
A. I do.
Q. And who is Lauren Wallace?
A. Lauren Wallace is a corporate flight attendant.
Q. And you told her about Mr. Jackson's desire to have his alcohol in a Diet Coke can, right?
A. I did.
Q. And when you served Michael Jackson vodka drinks, they were always in a Diet Coke can, correct?
A. That is correct.
Q. What you would typically do is go into the lavatory, pour out the Coke, and put some either wine or vodka in the Diet Coke can, right?
A. That is correct.
Q. And what you typically did was go up to Mr. Jackson and say, "Here's your Diet Coke, Mr. Jackson," right?
A. That is correct.
Q. You both understood what was in there, right?
A. That is correct.
Q. And your understanding was Mr. Jackson didn't want children to see him drinking alcohol, right?
A. That is correct.
Q. You were on some flights where there was 4171

considerable turbulence, right?
A. Yes.
Q. And would it be accurate to say that when there was a lot of turbulence, Mr. Jackson would drink a little more than normal?
A. Yes.
Q. Was it your impression he did that because he was nervous?
A. That is correct.
MR. MESEREAU: I think we're through, Your Honor.
THE COURT: We are.
All right. We'll start at 8:30 tomorrow morning.
THE WITNESS: Do I get to go home?
(The proceedings adjourned at 2:30 p.m.)
--o0o--

REPORTER'S CERTIFICATE

THE PEOPLE OF THE STATE OF)
CALIFORNIA,)
Plaintiff,)
-vs-) No. 1133603
MICHAEL JOE JACKSON,)
Defendant.)

I, MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304, Official Court Reporter, do hereby certify: That the foregoing pages 3992 through 4172 contain a true and correct transcript of the proceedings had in the within and above-entitled matter as by me taken down in shorthand writing at said proceedings on March 29, 2005, and thereafter reduced to typewriting by computer-aided transcription under my direction.

DATED: Santa Maria, California,
March 29, 2005.

MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304
OFFICIAL COURT REPORTER